





ON
THE METHODS
OF
OBSERVATION AND REASONING
IN
POLITICS.



Ædificium hujus universi, structurâ suâ, intellectui humano contemplanti, inatar labyriuthi est ; ubi tot ambigua viarum, tam fallaces rerum et signorum similitudines, tam oblique et implexæ naturarum spiræ et nodi, undequaque se ostendunt : iter autem, sub incerti sensus lumine, interdum affulgente, interdum se condente, per experientiæ et rerum particularium sylvas perpetuò faciendum est. Quinetiam duces itineris, qui se offerunt, et ipsi implicantur ; atque errorum et errantium numerum augent. In rebus tam duris de judicio hominum ex vi propriâ, aut etiam de felicitate fortuitâ, desperandum est ; neque enim ingeniorum quantacunque excellentia, neque experiendi alea sæpius repetita, ista vincere queat. VESTIGIA FILO REGENDA SUNT : omnisque via, usque a primis ipsis sensuum perceptionibus, certâ ratione munienda.

LORD BACON, *Nor. Org. Pref.* vol. ix. p. 157.

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A TREATISE
ON
THE METHODS
OF
OBSERVATION AND REASONING
IN
POLITICS.

BY
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ON
THE METHODS OF OBSERVATION AND
REASONING IN POLITICS.

CHAPTER I.

INTRODUCTION.

§ 1 **W**HEN a subject is extensive and multifarious ; when it has been cultivated with assiduity, but with an alternation of good and bad success ; when the facts with which it deals are in a state of continual change, and, therefore, continually require new observation and new reasoning ; when there prevails a great diversity of opinions as to its theoretical principles, its preceptive maxims, its application in practice, and even as to the import of its terms ; when it concerns the most important interests of human life, and attracts the unceasing attention of all civilized nations ; there will surely be a general agreement as to the desirableness of finding some instrument or method, by which the uncertainty of the results may be diminished, and greater stability be given to its treatment.

Now this description applies to Politics. Writers of the most dissimilar schools of philosophy, historians, and practical men, as well as the general public, seem to concur in thinking that the principles of political science are ill-ascertained, and that the maxims of political art are insufficiently established ; while we see, from the daily experience of civilized nations, that there is no generally-recognised standard of opinion with respect to the practical application of political theories and rules of conduct. So unfavourable, indeed, is the popular judgment with respect to political philosophy, that it is often inclined to pro-

scribe the whole for the defects of a part ; to distrust much that is sound on account of the rest that is unsound ; and to involve the good with the bad, in one sweeping and indiscriminate condemnation.

No great department of human knowledge can remain long in an unsettled state—its foundations ill-established, its system imperfectly developed, its principles irregularly recognised and perpetually disputed—without serious detriment to mankind. The human race has derived essential benefits from the establishment of many of the physical sciences (as astronomy, mechanics, optics, and chemistry) on a secure basis. Can we, then, doubt that it would obtain as great, if not greater, advantages from the increased certainty of a system of truths and doctrines, which, like politics, lies at the bottom of all civilization, and directly affects the daily conduct and welfare of every member of a political community?

The most effectual mode of removing this uncertainty, and of reducing the discordant chaos of political theories and doctrines to a uniform and harmonious system, would be to produce a complete body of political philosophy, which should, by the accuracy and completeness of its facts, the fitness of its arrangement, and the force of its reasoning, command the general approbation of competent judges, and, through their assent, gradually work its way to popular reception. Such a task, however, is more easily described than executed ; and there may, in the present state of political investigation, be obstacles to the attempt, which, when we consider the failure which has attended the efforts of many eminent speculators, might fairly be deemed insurmountable.

Whether, however, an attempt at a definitive treatment of the whole compass of political philosophy be, or be not, premature at the present moment, it will at least be conceded ; that the success of such an attempt at some future period may be facilitated by preliminary labours, intended to clear the way for other and more capable investigators. One of the most important of these

labours consists in the determination of the subject-matter of politics, and of the methods by which it is to be investigated. When we have settled what political theory and practice are, and how we ought to reason respecting them, we may hope to have made some progress towards the attainment of that end, which all men, whatever their opinions may be, must concur in thinking desirable, provided it be attainable.

In the present treatise, therefore, an attempt will be made to survey this foreground of political philosophy, with the view of furnishing a guide to the political student who seeks to reason for himself, and to form an independent judgment upon any department of politics. On the one hand, it does not aim at establishing any political theory, or inculcating any system of political doctrine; on the other hand, it does not pretend to be a logical treatise, but it avails itself of logical rules, established by professed writers on logic, and is merely concerned with their application to politics. It makes no claim to novelty or invention; but it seeks only to extend to politics those methods of observation and reasoning which experience has proved to be most effectual, and which are employed with success in other departments of knowledge. Without proposing to determine truth, it proposes to be instrumental in promoting the determination of truth by others.

§ 2 But, limited and subordinate as the proposed inquiry may be, compared with a comprehensive and definitive scheme of political science, it is nevertheless both wide in its extent, and important in its applications. In order to ascertain the methods proper to each subject of investigation, it will be necessary to pass in succession through the different departments of politics; and if those methods should be laid down with tolerable correctness and accuracy, their use, both for scientific and practical purposes, will hardly be doubted. If an organon, or instrumental art of reasoning, could be constructed for the use of the political inquirer, by a proper adaptation of the logical processes recognised as sound in other departments of knowledge, it might,

though destitute of the novelty and originality which distinguished the great productions of Aristotle and Bacon,⁽¹⁾ nevertheless give him important assistance in his researches, and often furnish a thread in the intricate labyrinth of politics.

§ 3 Our main object, then, being to distinguish between sound and unsound methods of reasoning in politics, and to obtain the proper instruments of inquiry for each department of the subject, we must first consider what value belongs to a *method of reasoning*,⁽²⁾ and how much assistance a *logical instrument* affords in the conduct of intellectual processes, such as those which are required in political discussion.

A good logical method directs all our efforts to the right end, and furnishes a compendious and well-contrived mechanism for the attainment of that end. Hence it abridges mental labour, and renders an equal amount of exertion more productive.⁽³⁾ Thus, arithmetic is the scientific method of counting. Common sense, if left to itself, could only count unit by unit; a process so tedious, that for large numbers it is, in general, impracticable. Arithmetic abridges the labour, by providing compendious methods, which dispense with the necessity of indi-

(1) The series of the logical writings of Aristotle was not known to his early commentators by the name of *organon* or *instrument*. This collective appellation seems, indeed, to have been first given to them after the invention of printing. (See Barthelemy St. Hilaire, *De la Logique d'Aristote*, tom. i. p. 19.) It came, however, into general use as the distinctive name of Aristotle's logic; and hence, Bacon called his new logic by the name of *Norum Organum*. Lambert published a logical work, entitled *Das Neue Organon*, in 1763.

(2) Cicero translates *μὲθοδος* by *via*, and couples it with *ars*. (*Brut.* c. 12.) Compare *De Fin.* ii. 1:—'Omnis autem in quaerendo, *qua via quadam et ratione habetur*, oratio, præscribere primum debet, ut inter quos disseritur conveniat, quid sit id de quo disseratur;' also, *De Orat.* i. 19.

(3) 'Nec manus nuda, nec intellectus sibi permissus multum valet; instrumentis et auxiliis res perficitur; quibus opus est non minus ad intellectum, quam ad manum. Atque ut instrumenta manus motum aut eient aut regunt; ita et instrumenta mentis intellectui aut suggerunt aut cavent.'—*Nov. Org.* i. 2.

'Intellectus sibi permissus in ingenio sobrio et patiente et gravi (præsertim si a doctrinis receptis non impediatur) tentat nonnihil illam alteram viam quæ recta est, sed exiguo profectu; cum intellectus nisi regatur et juvetur res inæqualis sit, et omnino inhabilis ad superandam rerum obscuritatem.'—*Ib.* 21.

vidual numeration. Geometry, in like manner, is the scientific method of measuring. In cases where actual measurement is laborious and difficult, geometry furnishes an indirect method of measuring without the physical application of the rod or the line. Scientific processes abridge intellectual labour to a far greater extent than mechanical processes abridge physical labour. Moreover, though more rapid and less wearisome, they tend to accuracy, and diminish the chances of error: thus, an arithmetical process, where the data are certain, is more likely to be correct than a result obtained by counting: while they sometimes, as in the measurement of the heavenly spaces by geometrical methods, render it possible to arrive at results which, without their assistance, would be unattainable.⁽⁴⁾

A good scientific method, therefore, assists the mental faculties; it guides and enlarges their operations. But it is not alone sufficient—it supersedes neither natural ability nor practice. No method of reasoning will, of itself, make a good reasoner. A certain amount of natural ability, combined with attentive study, and practical experience and employment of the method, is necessary to enable a person to use it with success. The mere knowledge of a scientific method of reasoning will not lead a person to right conclusions, more than the mere possession of a chest of tools will make him a carpenter; than the possession of a musical instrument will make him a musician; or, than the possession of a library will make him a scholar.⁽⁵⁾

(4) See Comte, *Cours de Phil. Pos.* vol. i. p. 121—4.

(5) Lord Bacon, in the *Distributio Operis*, containing the plan of his *Instauratio Magna*, lays it down, that no method can guarantee the mind against error: ‘Neque enim excellens aliqua demonstrandi via, sive naturam interpretandi forma, ut mentem ab errore et lapsu defendere ac sustinere, ita ei materiam ad sciendum præbere et subministrare possit.’—Vol. ix. p. 171.

In his *Nov. Org.*, however, he exaggerates the efficacy of his own method:—

‘Nostra vero inveniendi scientias ea est ratio, ut non multum ingeniorum acumini et robori relinquatur, sed quæ ingenia et intellectus fere exæquet.’—i. 61.

‘Nostra enim via inveniendi scientias exæquat fere ingenia, et non multum excellentiæ eorum relinquit, cum omnia per certissimas regulas et demonstrationes transigat.’—i. 122.

But with equal natural ability, equal study, and equal experience, the man who is provided with a good method will outstrip him who employs a defective or feeble method, or who trusts to mere common sense. If two artisans of equal skill work with tools of unequal goodness; if two manufacturers of equal skill work with machinery of unequal improvement, the result is manifest. So, if military engineers of equal skill are provided with artillery of unequal force, the preponderance cannot be doubtful. No courage or discipline in an army could enable the spear and the arrow to contend with success against the musket and the cannon.

No power of intellect, or natural talent, can do much with defective methods of investigation. A good method of reasoning, though not all-sufficient, is indispensable for success.⁽⁶⁾ A man of ordinary capacity, working with a good logical instrument, will accomplish far more than a man of greater natural powers working according to an unsound method; just as a weak man, taking the right path, will reach the journey's end sooner than a strong walker, taking a wrong path.⁽⁷⁾ In like manner, when a language is in an uncultivated and rude state, no amount of natural genius can produce a literary work; whereas a polished language is an instrument which any writer can use.

Inasmuch as a sound method, though indispensable for the attainment of a true result, is no infallible preservative against error, even in the ablest hands, it follows that the failure of any method, in a given case, is no decisive proof of its unsound-

(6) 'Neque huic labori et inquisitioni, ac mundanæ perambulationi ulla ingenii aut meditationis aut argumentationis substitutio aut compensatio sufficere potest; non si omnia omnium ingenia coierint. Itaque aut hoc prorsus habendum, aut negotium in perpetuum deserendum.'—Bacon, *Distributio Operis*, vol. ix. p. 171. Compare *Nov. Org.* i. 30.

(7) See *Nov. Org.* i. 61. 'Clausus enim (ut dicitur) in viâ antevertit cursorem extra viam. Etiam illud manifesto liquet, currenti extra viam, quo habilior sit et velocior, eo majorem contingere aberrationem.'

'Une bonne méthode donne à l'esprit une telle puissance qu'elle peut en quelque sorte remplacer le talent; c'est un levier qui donne à l'homme faible qui l'emploie, une force que ne saurait posséder l'homme le plus fort qui serait privé d'un semblable moyen.'—C. Comte, *Traité de Législation*, l. i. c. 1.

ness. The failure may, indeed, be owing to the defectiveness of the method; and if the process has been carefully worked, the erroneous result may raise a presumption that the rule is vicious; but even the soundest rules of investigation may be misapplied. 'We cannot be surprised (says Dr. Whewell) that in attempting to exemplify the method which he recommended, Bacon should have failed, for the method could be exemplified only by some important discovery in physical science; and great discoveries, even with the most perfect methods, do not come at command. Moreover, although the general structure of his scheme was correct, the precise import of some of its details could hardly be understood, till the actual progress of science had made men somewhat familiar with the kind of steps which it included. Accordingly, Bacon's inquisition into the nature of heat, which is given in the second book of the *Novum Organon* as an example of the mode of interpreting nature, cannot be looked upon otherwise than as a complete failure.'⁽⁸⁾ It would, however, be wholly unwarrantable to draw any general inference from the failure of Bacon's method in an individual case, even as employed by himself; or to conclude, from this single instance, that the substitution of the mode of investigation which he recommended, for that which he found in use, did not give a powerful impulse to the philosophy of nature.

One advantage belonging to a good method, for a particular subject, is, that it defines the degree of precision which the subject admits. Hence it prevents waste of labour, in striving after an exactness which is not attainable, and it guards against the error of supposing that, because the truth cannot be expressed with rigorous accuracy, an approximation as close as possible ought not to be made to it. Aristotle repeatedly inculcates the doctrine, that all subjects do not admit of the same precision and the same species of proof; and he lays it down that it is the mark of an instructed mind, as distinguished from

(8) *Phil. of the Inductive Sciences*, vol. ii. p. 401.

an incompetent judge, to be satisfied with that amount of exactitude and demonstration which comports with the subject.⁽⁹⁾

§ 4 A method of politics, therefore, aims at furnishing a set of rules which may serve to guide the observer and reasoner in the different departments of politics. It does not undertake to define the nature of government and law; it does not solve legislative problems, or inquire what are the best institutions of a state; nor does it, like the *Principe* and *Discorsi* of Machiavel, lay down a series of practical precepts for certain situations and contingencies in politics. Hence it will be only incidentally, and in illustrations and examples, that we shall be called on to criticise the opinions of former writers on the matter of politics; it will be no part of our object to establish a dogmatic political system.⁽¹⁰⁾ Much of the contents of the ensuing treatise has, indeed, been the subject of discussion by writers on politics; but questions of method have, in their miscellaneous works, been often mixed with questions of matter. Moreover, the best mode of explaining a method is to exemplify it, and to show its application in detail to the examples selected.

(9) See Biese, *Philosophie des Aristoteles*, vol. ii. p. 12—18.

(10) Antiquis auctoribus suus constat honos, atque adeo omnibus; quia non ingeniorum aut facultatum inducitur comparatio, sed viæ; nosque non iudicis, sed indicis, personam sustinemus.—*Nov. Org.* i. 32.

CHAPTER II.

ON THE PROVINCE OF POLITICS.

§ 1 **B**EFORE we can enter upon the proper subject of this treatise—the methods of observation and reasoning in Politics—it will be necessary to determine, as fully and precisely as our purpose requires, the ideas comprehended by the term Politics, the extent of which must govern the course of our investigation.

A political community⁽¹⁾ is distinguished from a collection of persons living in a state of anarchy; or (as it is sometimes called) in a state of nature, by their being in subjection to a common government. For a definition of political government, or sovereignty, involving the idea of national independence, we must refer to the writers on jurisprudence, by whom the requisite explanations have been given.⁽²⁾

The entire subject-matter of politics is involved in the idea of a sovereign government, together with the independent community over which it presides. When men are still in a savage state, they have no political rule:⁽³⁾ they may have temporary

(1) ἡ πόλις, *civitas*, or state—sometimes a commonwealth, in the generic sense. Buffon distinguishes three sorts of society: 1, That of the inferior animals, as the bees; 2, That of the superior animals, as beavers, elephants, monkeys; 3, That of man. This distinction is approved by M. Flourens, *De l'Instinct*, p. 65. The principle upon which the first of these societies is distinguished from the second is not, however, obvious.

(2) See, particularly, Austin's *Province of Jurisprudence*, p. 199.

(3) A community in a savage state, before the division of land, has customs rather than laws (Montesquieu, *Esprit des Loix*, xviii. 13.) Volney, in his observations on the North American Indians, says that 'they had neither government nor subordination; that the greatest war-chief could not strike or punish a warrior even in the field, and that in the village he was not obeyed by a single child except his own; that in these villages they dwelt singly, in mistrust, jealousy, secret ambushes, and implacable vengeance; in a word, that their society was a state of anarchy, of a ferocious nature, where want constitutes right, and strength laws.' (*View of the United States of America*, p. 397: Eng. tr.) 'In those vil-

leadership, or military government, limited to a war-expedition;(*) but the only permanent government with which they are acquainted is domestic government. This is the state of things which Homer describes as existing among the Cyclopes, a fabulous race of giants, and which Plato and Aristotle cite as the type of primitive wildness.(†) Domestic government seems,

lages the jealousy of every warrior, of every savage, renders the situation of the chiefs as delicate as that of the head of a party in the most democratic state; theirs, in fact, is an extreme and terrible democracy' (p. 426). 'He told me that the assemblies of old men had no coercive power over the young; that the first mutinous or superstitious young warrior might in one morning excite a rising of young men,' &c. (p. 427.) Volney remarks that the state of society among the Bedouin Arabs is more advanced than among the North American Indians; inasmuch as the former have a real government (p. 446). The North American Indians have no property in land (p. 420, 434, 448). Mr. Bancroft (*History of the United States*, chap. 22, vol. iii. p. 274-9), assigns them a government in name, but his description denies it to them in substance.

Savages of a lower order than the red men of America are naturally without any government. 'On n'a vu chez les indigènes de la terre de Van-Diemen aucun genre d'organisation sociale. . . . L'absence de subordination sociale, de culture et de richesses, abrège beaucoup l'examen des mœurs de ces insulaires; car il ne peut être question de leurs relations comme gouvernans et comme gouvernés, comme propriétaires et comme cultivateurs, comme maîtres et comme domestiques. Les seuls rapports sous lesquels on ait à les considérer, sont ceux qui résultent de l'état de famille, de l'état de communauté, et ceux qu'ils peuvent avoir avec d'autres peuplades, ou avec des hommes qui ne font point partie de leur association.'—C. Comte, *Traité de Législation*, liv. iii. chap. 28.

Compare Aristotle, *Eth. Nic.* viii. 14: ἀνδρὶ δὲ καὶ γυναίκι φιλία δοκεῖ κατὰ φύσιν ὑπάρχειν· ἄνθρωπος γὰρ τῇ φύσει συνδυαστικὸν μᾶλλον ἢ πολιτικόν, ὥσπερ πρότερον καὶ ἀναγκαϊότερον οἰκία πόλεως.

(4) 'Even after nations have chosen a military leader, they do not entrust him with any species of civil authority. The captain among the Caribbees did not pretend to decide in domestic disputes: the terms *jurisdiction* and *government* were unknown in their tongue.'—Ferguson's *Essay on the History of Civil Society*, p. 166.

(5) τοῖσιν δ' αὖτ' ἀγοραὶ βουλευφόροι, οὔτε θίμωστές
ἀλλ' αἰγ' ἱψηλῶν ὀρέων ναῖονσι κάρηνα
ἐν σπῖσσι γλαφυροῖσι· θημιστεύει δὲ ἕκαστος
παῖδων ἢδ' ἀλόχων, οὐδ' ἀλλήλων ἀλέγουσιν.

Odys. ix. 112—115.

Plato refers to these verses as the type of the patriarchal life, before the existence of civil government (*Leg.* iii. 3, p. 680). Aristotle does the same, *Polit.* i. 2; *Eth. Nic.* x. 10. Also, Eurip. *Cyclops*, 117—20.

ΟΔ. τίνες δ' ἔχουσι γαῖαν; ἢ θηρῶν γένος;

ΣΕΙΑ. Κύκλωτες ἄντρ' ἔχοντες, οὐ στέγας δόμων.

ΟΔ. τίνας κλύοντες; ἢ δεδιμνεται κράτος;

ΣΕΙΑ. νομάδες ἀκούει δ' οὐδὲν οὐδεὶς οὐδέ τις:

so far as our experience carries us, to have been the origin of political government.⁽⁶⁾ The patriarchal rule over wives, children, and servants or slaves, at last produced a genuine political government over a small tribe; and if this power is associated with military successes, and the habitations of the people are fixed, the government becomes established. The community, having now emerged from the savage state, may be designated as barbarous: the people have rights of property, and other rights, enforced by some sort of judicature: the government is rude, but still it is a government.⁽⁷⁾

So Lucretius, in his account of the primitive state of mankind:—

‘Nec commune bonum poterant spectare, nec ullis
Moribus inter se scierant nec legibus uti.’

V. 955—6.

Compare the account of the actual state of the Bosjesmans, in Southern Africa:—‘Il n'existe, parmi eux, aucune espèce de subordination sociale, quoiqu'on les rencontre quelquefois en troupes. Ils sont tellement isolés les uns des autres, qu'à côté de la caverne où vit une bête sauvage, on trouve une caverne dans laquelle vit la famille d'un Boschisman.’—C. Comte, *Traité de Législation*, liv. iii. c. 29.

(6) ‘Nam cum sit hoc naturâ commune animantium, ut habeant libidinem procreandi, prima societas in ipso conjugio est: proxima in liberis: deinde una domus, communia omnia. Id autem est principium urbis, et quasi seminarium reipublicæ. Sequuntur fratrum conjunctiones: post consobrinorum sobrinorumque, qui cum unâ domo jam capi non possint, in alias domos, tamquam in colonias, exeunt. Sequuntur connubia et affinitates; ex quibus etiam plures propinqui. Quæ propagatio, et soboles, origo est rerumpublicarum.’—Cic. *de Offic.* i. 17.

Aristotle describes a village as a combination of families, and a state or city as a combination of villages. He calls a village a colony of a family (*Pol.* i. 1). This view, however, is founded on the peculiar circumstances of Greece, where an important distinction existed between the open village and the walled town, the latter of which was necessary to independence. (See Müller's *Dorians*, iii. 4, § 8; Grote's *History of Greece*, vol. ii. p. 340—345.) According to Dion. Hal. i. 9, the aborigines of Italy lived in unwall'd villages.

‘Whoever makes the presumptuous attempt to frame a distinct conception of the way in which states arose out of a foregoing order of things, where no civil society existed, is forced to mount up in thought to an age when such families as spring from one stock live in a patriarchal manner, united into a little community: such a community he considers as a house; and the coalition of these families, as the social compact, the formation of a state.’—Niebuhr, *History of Rome*, vol. i. p. 264, Engl. tr.

On patriarchal government, see Elphinstone's *Account of Caubul*, vol. i. p. 210, ed. 8vo, 1842.

(7) Ferguson (*Essay on the History of Civil Society*, part ii. sect. 2)

Now, whenever the essential marks of a sovereign government (viz. a habit of non-obedience on its own part to any political superior, and a habit of obedience to itself on the part of the people) can be discerned, an independent political community exists, however bad that government may be.

There are certain conditions for the *existence* of a government; there are certain conditions for its *goodness*; and these two are sometimes confounded. The confusion is similar to that which would arise in physiology, if the conditions of *life* were confounded with the conditions of *health*. It must not, therefore, be said that a harsh despotism, or an oppressive oligarchy, or an ill-regulated and violent democracy, is not a government, although it may be a bad government.⁽⁷⁾ A political community,

states that the history of mankind, in their rudest state, may be considered under two heads, viz., 'that of the savage who is not yet acquainted with property; and that of the barbarian, to whom it is—although not ascertained by laws—a principal object of care and desire.'

The distinction here made between the *savage* and the *barbarous* states of society resolves itself into the absence or presence of political government; for, without political government, property cannot exist. The distinction is an important one; and it would be convenient to apply the term *savage* to communities which are permanently in a state of anarchy, which ordinarily exist without government, and to apply the term *barbarous* to communities which, though in a rude state as regards the arts of life, are nevertheless ordinarily subject to a government. In this sense the North American Indians would be in a *savage*, while the Arab tribes, and most of the Asiatic nations, would be in a *barbarous* state. Montesquieu's distinction between savages and barbarians (*Esprit des Loix*, xviii. 11), is different in form; but in substance it is founded on the same principle. Hugh Murray (*Enquiries respecting the Character of Nations and the Progress of Society*, Edinburgh, 1808), lays it down (p. 230), that the savage form of society is without government.

(8) The sentiment that a despotism is not a government, and that a state thus governed is not a state at all, occurs in the Greek writers: thus, in Sophocles. *Antig.* 737, Hæmon says,

πόλις γὰρ οὐκ ἔσθ' ἥτις ἀνδρὸς ἐσθ' ἓνός.

According to Plat. (*Leg.* viii. 3, p. 832) democracy, oligarchy, and τυραννίς, are not constitutions, but factions.

Aristotle limits the name of πολιτεία—constitution or government—to a government which is administered according to law. Hence, when a democracy is administered, not according to laws, but by special arbitrary decrees—by a series of *privilegia*—he will not admit that it is a constitution.—*Polit.* iv. 4, *ad fin.*

The idea is most fully developed in the third book of Cicero's *Republic*, see c. 31-3. A summary of the entire argument is given by Augustine:

however ill it may be governed, is still a political community: a law, however mischievous it may be, is still a law. The evidence of positive facts must have weight, however bad may be the uses to which the power may be applied.

The *respublica*, or *commonwealth*, must not be limited to communities which are governed for the common good, and where the bulk of the citizens have a share in the sovereign power. When, in any independent community, there is an exercise of power which combines the essential attributes of government, it ought to be admitted that a government exists, under whatever category of goodness or badness we may judge it to fall. To deny the existence of a government in such a case, is like denying the name of a church to a Christian communion because it is not governed by bishops, or because it is deficient in some institution which another portion of the Christian world deems necessary for good ecclesiastical government: it is like limiting the appellation of rhetoric to those cases in which the art is used for a good purpose.⁽⁹⁾ Whenever, therefore, the essential conditions of political government exist, whether the powers be used in a manner deserving of praise or blame, we shall consider the subject as belonging to politics, and therefore as falling within the scope of this treatise.

§ 2 Some philosophers, seeing how much the principle of division of labour is promoted by regular government, have made

—'Docet deinde quanta sit in disputando definitionis utilitas: atque ex illis suis definitionibus colligit, tunc esse rempublicam, id est rem populi, cum bene ac juste geritur, sive ab uno rege, sive a paucis optimatibus, sive ab universo populo. Cum vero injustus est rex, quem tyrannum, more Græco, appellavit; aut injusti optimates, quorum consensum dixit esse factionem; aut injustus ipse populus, cui nomen usitatum non reperit, nisi etiam ipsum tyrannum vocaret; non jam vitiosam, sicut pridie fuerat disputatum, sed, sicut ratio ex illis rationibus connexa docuisset, omnino nullam esse rempublicam: quoniam non esset res populi, cum tyrannus eam factione capesseret; nec ipse populus jam populus esset, si esset injustus, quoniam non esset multitudo juris consensu et utilitatis communione sociata, sicut populus fuerat definitus.'—*De Civ. Dei*, ii. 21. In like manner, Locke lays it down that absolute monarchy is 'no form of civil government at all.'—*On Government*, b. ii. § 90.

(9) See *Quintilian*, ii. 15.

it the origin of civil society.⁽¹⁰⁾ If, however, we are to look for any one cause of political government over the entire world, war, or force, must be considered as having the best title; and not any voluntary arrangement, founded on the perception of a common utility. So far as the experience of savage tribes enables us to judge, patriarchal or family government is extended into political government by successful military expeditions, and the forcible subjugation of adjoining tribes under a common head. When this process has been completed, and submission has become a habit, a division of labour is gradually made under the teaching of experience. Men cease to provide for themselves the protection which they derive from the government; and they form gradually a distribution of labour, when they can reckon on such a degree of security of property as will enable them to preserve the superfluous produce of their own labour for exchange with the superfluous produce of the labour of others. The division of labour, therefore, is the first fruits of political government; and it tends, in return, to strengthen the institution to which it owes its existence. It re-acts upon the cause which gave it birth; but it cannot be considered as the origin of civil society.

(10) See Plat. (*Rep.* ii. 11, p. 369,) who traces the origin of government to the insufficiency of each man for the supply of his own wants, and to the measures which he in consequence adopts for associating with other persons to assist him. Aristotle (*Pol.* i. 2) likewise remarks, that a man who could not associate with others, or who was all-sufficient for his own wants, would form no part of a state: he would be either below or above human nature, and not a man—*ἢ ἑνός ἢ θεός*.

Mr. Senior (*Pol. Ec.* p. 75) lays it down, that division of labour is the origin of civil society: 'The labour (he says) which every individual who relies on himself for protection must himself undergo, is more than sufficient to enable a few individuals to protect themselves, and also the whole of a numerous community. To this may be traced the origin of governments. The nucleus of every government must have been some person who offered protection in exchange for submission. On the governor, and those with whom he is associated, or whom he appoints, is devolved the care of defending the community from violence and fraud. And so far as internal violence is concerned—and that is the evil most dreaded in civilized society—it is wonderful how small a number of persons can provide for the security of multitudes.' M. Comte (*Cours de Phil. Pos.* tom. iv. p. 597-601) says, that the union of several families is a necessary condition for division of labour, and the first effect of political society.

§ 3 Speculative writers on politics have attached some importance to the question, whether government is natural, and whether man is by nature a political animal. It seems to be universally agreed that man is a *social* animal; and that his natural state, like that of the gregarious species of animals, is to live in societies.⁽¹¹⁾ The question is, whether these societies are naturally placed under a civil government; and whether man is, by nature, not merely *social*, but also *political*.⁽¹²⁾

We shall, in another part of this treatise, have occasion to advert to the received antithesis between nature, and institution or law; and we shall attempt to ascertain the meaning which it is intended to bear.⁽¹³⁾ Here we will only observe, that if by nature is meant the sum of all human faculties, and of all the conditions of human existence,⁽¹⁴⁾ it cannot be said that man is by nature a political animal—since we know from undoubted experience that

(11) Man is a *social animal*, according to Seneca (*De Clem.* i. 3). Lactantius says that he is a social animal by nature, (*Div. Inst.* vi. 10), in which he follows Cicero (*De Off.* i. 44). 'Mankind have always wandered or settled, agreed or quarrelled, in troops and companies.'—Ferguson's *Essay on the History of Civil Society*, p. 26. See also Lord Kames' *History of Man*, book ii. sketch 1: Filangieri, *Scienza della Legislazione*, l. i. c. 1. 'La nature de l'homme le porte à vivre en société. Quelle qu'en soit la cause, ce fait se manifeste en toute occasion. Partout où l'on a rencontré des hommes, ils vivaient en troupes, en hordes, on corps de nation. Peut-être est-ce afin d'unir leurs forces pour leur sûreté commune; peut-être afin de pouvoir plus aisément à leurs besoins; toujours est il vrai qu'il est dans la nature de l'homme de se réunir en société, comme font les abeilles et plusieurs espèces d'animaux; on remarque des traits communs dans toutes ces réunions d'hommes, en quelque partie du monde qu'ils habitent.'—Say, *Cours d'Ec. Politique*, tom. vi. p. 284; compare Comte, *ib.* tom. iv. p. 541.

(12) ἐκ τούτων οὖν φανερόν ὅτι τῶν φύσει ἡ πόλις ἐστὶ, καὶ ὅτι ἄνθρωπος φύσει πολιτικὸν ζῷον, Aristot. *Pol.* i. 2. πολιτικὸν γὰρ ὁ ἄνθρωπος καὶ συζῆν πεφυκός, *Eth. Nic.* ix. 9. 'Naturâ sumus apti ad coetus, concilia, civitates. . . . Facile intelligitur nos ad conjunctionem congregationemque hominum, et ad naturalem communitatem esso natos. . . . Quemadmodum igitur membris utimur prinsquam didicimus cujus ea utilitatis causâ habeamus, sic inter nos naturâ ad civilem communitatem conjuncti et consociati sumus.'—Cic. *de Fin.* iii. 19, 20; also, *De Off.* i. 4; *De Rep.* i. 25; *De Fin.* v. 23. Compare Grotius, *De J. B. et P. Proleg.* § 7—9. Puffendorf, ii. 2, § 7; 3, § 16; vii. 1, § 2, 3. Conringius, *Dissert. de Civet et Civitate*, § 45—9; *Opera*, vol. iii. p. 734. Seneca *de Benef.* iv. 18.

(13) Below, ch. 18, § 6.

(14) Compare the remarks of Puffendorf, on a use of *naturaliter* in text of the *Digest*, v. 3, § 10.

large portions of mankind have existed, and do exist, without any regular political government. On the other hand, if by nature is meant that improved type which mankind approach as their reason is cultivated, and their social condition is raised,⁽¹⁵⁾ it may be affirmed with truth that man is by nature a political animal.

The question respecting the natural existence of political society is, therefore, a merely verbal one, and depends upon the meaning which we affix to the word *nature*. But there is, nevertheless, a real question involved in the proposition at issue. The antithesis which is here intended is not that between nature and institution, but that between man and the other animals. Those who speak of man being by nature a political animal mean, in fact, to contrast him with those gregarious species, as monkeys, dogs, horses, elephants, bees, &c., which are not political animals; and to affirm that his nature qualifies him alone among the animal species for civil government.

According to a passage of Ulpian, received in the *Digest*, and incorporated in the *Institutes*, there is a natural law which is common to men and animals.⁽¹⁶⁾ The existence of any such law is, however, rejected by Grotius, Selden, Puffendorf, and other jurists of authority;⁽¹⁷⁾ nor can it be admitted, if the word *law* is

(15) οὖν γὰρ ἕκαστόν ἐστι τῆς γενέσεως τελευτήσεως, ταύτην φασὲν τὴν φύσιν εἶναι ἐκείνου, ὥσπερ ἀνθρώπου, ἵππου, οἰκίας.—Aristot. *ib.*

(16) 'Jus naturale est, quod natura omnia animalia docuit; nam jus istud non humani generis proprium, sed omnium animalium quæ in terrâ, quæ in mari nascuntur, avium quoque commune est. Hinc descendit maris atque feminae conjunctio, quam nos matrimonium appellamus, hinc liberorum procreatio, hinc educatio; videmus etenim cetera quoque animalia, feras etiam, istius juris peritiâ censeri.' (*Dig.* i. 1, § 1.) See also, *Inst.* i. 2, where the passage is repeated with only a verbal variation. Compare the argument of Cicero:—'Quod si hoc apparet in bestiis, volucris, nantibus, agrestibus, cicuribus, feris, primum ut se ipsæ diligant (id enim pariter cum omni animante nascitur): deinde ut requirant atque appetant, ad quas se applicent, ejusdem generis animantes: idque faciant cum desiderio, et cum quadam similitudine amoris humani; quanto id magis in homine fit naturâ,' &c.—*De Amicit.* c. 21.

(17) Grotius, i. 1. § 11. Selden, *De Jure Nat. et Gent. juxt. Disc. Ebr.* lib. i. c. 5. Puffendorf, ii. 3, § 2, 3. Austin, *Prov. of Jurisprudence*, p. 188. Savigny (*System des Heut. Röm. Rechts*, vol. i. p. 416) attempts to give a meaning to the definition.

Compare Cic. *de Fin.* iii. 20:—'Et quomodo hominum inter homines

to receive any intelligible and consistent sense. Command and obedience, which are the essential elements of government, are peculiar to mankind as distinguished from all other animal species. Man is singular, not only in commanding the inferior animals, but in commanding his own species. Hence, men alone form a political community. They alone, by means of civil government, are susceptible of civilization.⁽¹⁸⁾

The capacity for political government, and for its consequence—progressive improvement in a legally-constituted community—is the characteristic of mankind, and distinguishes the human from all other animal races. It has been laid down, by Aristotle and others, that this difference is owing to the exclusive possession of reason and speech by man, and to his power of discriminating between justice and injustice.⁽¹⁹⁾ Such a general explanation is correct, and points to the fundamental causes of the difference in question: but as we are about to inquire into the methods of

juris esse vincula putant, sic homini nihil juris esse cum bestiis. Præclare enim Chrysippus, cetera nata esse hominum causâ, et deorum: eos autem communitatis et societatis suæ; ut bestiis homines uti ad utilitatem suam possint sine injuriâ.

(18)

Separat hoc nos

A grege mutorum; atque ideo venerabile soli
Sortiti ingenium, divinorumque capaces,
Atque exercendis capiendisq; artibus apti,
Sensum a cœlesti demissum traximus arce,
Cujus egent prona et terram spectantia. Mundi
Principio indulsit communis conditor illis
Tantum animas, nobis animum quoque, mutuas ut nos
Affectus petere auxilium et præstare juberet,
Dispersos trahere in populum, migrare vetusto
De nemore, et proavis habitatas linquere silvas;
Ædificare domos, laribus conjungere nostris
Tectum aliud, tutos vicino limite somnos
Ut collata daret fiducia; protegere armis
Lapsum, aut ingenti nutantem vulnere civem,
Communi dare signa tubæ, defendier isdem
Turribus, atque unâ portarum clave teneri.

Juvenal, xv. 142—158.

(19) See Aristot. *Pol.* i. 2. Animals, says Cicero, are unfitted for political society, as being 'rationis et orationis expertes.'—*De Off.* i. 16; compare c. 4: also, Puffendorf, ii. 1, § 5. On the difference between instinct and reason, see Dr. Holland's *Medical Notes and Reflections*, c. 34. Concerning the mental faculties of animals, see Gurlt, *Lehrbuch der vergleichenden Physiologie der Haus-Säugethiere*, (Berlin, 1837,) § 421-9.

investigating the different departments of politics, it will be advisable to obtain, at the outset, as full and detailed a notion as we can of the peculiarities in man's nature which enable him alone, of all animals, to conceive and realize the idea of political government. This is one of the most important, as well as most interesting, problems of that portion of the science of man, which has been denominated Anthropology.⁽²⁰⁾

§ 4 The theory of a graduated series of animated nature, beginning with those animals which approximate to vegetables, and ending in man, was first enounced by Aristotle.⁽²¹⁾ It was reproduced by Leibnitz in the last century, and afterwards embodied by Popc in his *Essay on Man*.⁽²²⁾ At a later period it was adopted by Buffon and Bonnet, and became the established doctrine of naturalists before Cuvier.⁽²³⁾ That a continuous series connecting man with the vegetable kingdom can be formed, in a rude

(20) According to Dr. Latham, (*Natural History of the Varieties of Man*, London, 1850), 'anthropology determines the relations of man to the other mammalia; ethnology, the relations of the different varieties of mankind to each other.'—p. 559.

'Comme ce n'est qu'en comparant que nous pouvons juger; que nos connaissances roulent même entièrement sur les rapports que les choses ont avec celles qui leur ressemblent ou qui en diffèrent, et que s'il n'existoit point d'animaux, la nature de l'homme seroit encore plus incompréhensible; après avoir considéré l'homme en lui-même, ne devons nous pas nous servir de cette voie de comparaison; ne faut il pas examiner la nature des animaux, comparer leur organisation, étudier l'économie animale en général,' &c.—Buffon, *Discours sur la Nature des Animaux*, tom. iv. p. 3, ed. 4to, 1753.

(21) *Hist. An.* viii. 1.

(22) Far as creation's ample range extends,
The scale of sensual, mental powers ascends;
Mark how it mounts to man's imperial race,
From the green myriads in the peopled grass.
* * * * *
Vast chain of being! which from God began,
Natures ethereal, human, angel, man,
Beast, bird, fish, insect, what no eye can see,
No glass can reach; from infinite to thee,
From thee to nothing.

Ep. i. v. 207-41.

See Dr. Johnson's criticism on the theory of the scale of existence, in his review of Soame Jenyns' *Free Enquiry; Works*, vol. vi. p. 51-3.

(23) See Flourens, *Buffon*, p. 36-50; Cuvier, p. 261-71; and compare Comte, *ib.* tom. iv. p. 624.

manner, is easily seen; but Cuvier showed that, for scientific purposes, and with a view to precise arrangement, the single line must be divided and dissolved into parallel lines, exhibiting the succession of separate organs. However this gradation may be traced, human physiology is at the top of the scale, and the refinement of the human organs subsides, by a continuous degradation, into the ruder and simpler mechanism of the inferior animals.

The transition from the bodily organs of man to those of the higher mammalia is comparatively gentle and gradual, and from them the deterioration proceeds by a regular descent. But with regard to mental faculties, there is a broad distinction between man and *all* species of animals. Some of the higher quadrupeds, indeed, show a very decided superiority in intelligence to the inferior orders; but even these are separated from man by a wide interval. There are certain capital points of intellectual superiority which are peculiar to man, and which cannot be said to exist, even in a rudimentary state, in the most perfectly organised of the other animals. The theory of a continuous chain from man to polypes fails altogether when it is applied to the intelligence.⁽²⁴⁾ This will appear more clearly when the characteristic marks of human intelligence are set forth in detail.

(24) 'Quelle ressemblance qu'il y ait entre le Hottentot et le singe, l'intervalle qui les sépare est immense; puisqu'à l'intérieur il est rempli par la pensée, et au dehors par la parole.'—Buffon, tom. xiv. p. 32; quoted by Flourens, p. 138.

For M. Comte's views respecting the intelligence of animals, see tom. iii. p. 769-88. In page 774 he says:—'Les naturalistes ont forcé les métaphysiciens à renoncer enfin au singulier expédient imaginé par Descartes, et à reconnaître, plus ou moins explicitement, que les animaux, du moins dans la partie supérieure de l'échelle zoologique, manifestent, en réalité, la plupart de nos facultés affectives et même intellectuelles, avec de simples différences de degré; ce que personne aujourd'hui n'oserait plus nier.' Compare page 785, where similar opinions as to the difference between the moral and intellectual nature of man and the higher mammalia being only a difference of degree, are expressed. It must, however, be remarked, that a difference of degree is sometimes quite as important as a difference of kind. In a question of degree, everything depends on the *amount* of difference. The difference between an arctic winter and a tropical summer is only a difference of degree. The difference between the intelligence of an infant and of an adult man, is only a difference of degree. In order to characterize the respective faculties of men and animals, it is necessary to describe the *extent* of the difference.

In the first place, man can form a language, consisting of articulate sounds, to express his thoughts; and he can represent these sounds by written characters, so as to be a mode of communication at a distance, and a record, independent of memory. Some races of birds (as parrots and pies),⁽²⁵⁾ imitate the articulate language of man, but attach no meaning to the words which they mimic: they repeat the sound, as Bossuet has said, but not the sign. Most of the mammalia, also, can express various wants or emotions by inarticulate noises: ⁽²⁶⁾ but none can form a language for themselves, or even learn its use from man, beyond the meaning of a few words. Consequently, they cannot communicate their ideas clearly to one another, or embody the results of their experience in a permanent form. The *Æsopian* fable, which supposes the beasts to speak, is avowedly a violation of the laws of nature; the cries of animals, such as the roaring of lions, the

(25) The birds which make articulate sounds are essentially imitative. Thus Persius—

‘Quis expedit psittaco suum χαίρε,
Picosque docuit verba nostra conari?’

Also Ovid, *Amor.* ii. 6:—

‘Psittacus, Eois imitatrix ales ab Indis’ (v. 1).

‘Occidit ille loquax, humanæ vocis imago, Psittacus’ (v. 37).

Concerning the *δαλίκρος* of birds, see Aristotle, *Hist. An.* iv. 9.

The proneness of animals is contrasted with the erect figure of man by Ovid, *Mét.* l. 84-6; Cic. *Leg.* i. 9; ii. 56; Juvenal, xv. 147; Silius, xv. 84-6; Sallust, *Cat.* i.; Minneius Felix, c. 17; Lactant. *de Irâ Dei*, c. 7.

This is true of the larger land mammalia: but the birds, generally, being bipeds, have their heads and necks as erect as man. See Browne’s *Vulgar Errors*, b. iv. c. 1.

(26) Dogs in a wild state are stated to howl, not to bark. Barking appears to be an attempt to imitate the human voice, and it is the most expressive and varied of all animal sounds. Compare the description of Lucretius, v. 1062-71.

‘Irritata canum quum primum magna Molossùm
Mollia rieta fremant, duos nudantia dentes,
Longe alio sonitu rabies districta minatur,
Et quum jam latrant, et vocibus omnia complent.
At catulos blande quum linguâ lambere tentant,
Aut ubi eos lactant pedibus, morsuque petentes
Suspensia teneros imitantur dentibus hanstus,
Longe alio pacto gannitu vocis adulant,
Et quum deserti baubantur in ædibus, aut quum
Plorantes fugiunt submisso corpore plagas.’

lowing of cattle, the bleating of goats, the songs of birds, are constant and uniform, and are distinctive marks of each species, so long as it remains in a wild state. Human language, on the other hand, is arbitrary and artificial; it varies, moreover, from nation to nation, and from age to age.⁽²⁷⁾ There are many savage tribes without political government; but none (as Condorcet remarks) has been found without the use of an articulate language.⁽²⁸⁾

Being destitute of language, animals cannot issue a general command. They are incapable of understanding a general denunciation of punishment, even from man. Punishment, when inflicted by man on animals, must, in order to be effective, be

(27) 'Dans les animaux, les cris de chaque espèce sont toujours les mêmes; ces cris sont les mêmes depuis l'origine de l'espèce, et le seront jusqu'à la fin de l'espèce. . . . Dans ces cris tout est naturel, rien n'est inventé. Tout, dans la langue de l'homme, est invention.'—Flourens, *Buffon*, p. 136.

Locke thinks that since brutes have no use of words, or other general signs, they have not the faculty of abstracting, or making general ideas. They can reason in individual cases, but cannot generalise their conclusions.—*Essay concerning Human Understanding*, b. ii. c. 11, § 10, 11. Compare the absurd story of an intelligent parrot, *ib.* ii. 27, § 8. He says, that animals have no idea of number, *ib.* ii. 11, § 7. Leroy, *Lettres*, &c. p. 149, says, that animals can count, which is true for small numbers.

(28) Speaking of savage tribes, which live upon wild fruits, Condorcet says: 'Dans ces dernières, où l'utilité de rester uni se fait moins sentir, on a pu observer la civilisation réduite presque à une simple société de famille. Cependant, on a trouvé partout l'usage d'une langue articulée.'—*Tableau Hist. des Progrès de l'Esprit Humain*, p. 19. He remarks likewise, p. 20, that the formation of a language must have preceded the existence of civil government.

Respecting the language of beasts, see Flourens, *Buffon*, p. 134; *De l'Instinct et de l'Intelligence des Animaux*, p. 175. Leroy (*Lettres Philosophiques sur l'Intelligence et la Perfectibilité des Animaux*, Paris, 1802, p. 82-8), maintains the existence of a language of beasts. Dupont de Nemours, according to M. Flourens, not only believed in its existence, but undertook to interpret it. He published translations of nightingales' songs, and also a dictionary of crows—'travail qui lui a coûté (he says) deux hivers, et grand froid aux pieds et aux mains.'

'Proprius homini sermo est: tamen et in illis quedam similitudo sermonis. Nam et dignoscunt invium se vocibus; et cum irascuntur, edunt sonum jurgio similem; et cum se ex intervallo vident, gratulandi officium vocis declarant. Nobis quidem voces eorum videntur inconditæ, sicut illis fortasse nostræ: sed ipsis, qui se intelligunt, verba sunt. Denique in omni affectu certas vocis notas exprimunt, quibus habitum mentis ostendant.'—Lactantius *de Ira Dei*, c. 6.



individual. No animal comprehends the exemplary nature of punishment; that arrangement which (in the words of Cicero) provides 'ut metus ad omnes, poena ad paucos perveniat.'⁽²⁹⁾ The lashes inflicted on one horse do not stimulate another; the correction of one dog is no lesson to another dog. Man cannot influence a single animal by the fear of punishment, without actually inflicting it upon him.⁽³⁰⁾ Hence they are wanting in a faculty which is an essential condition for government. They can lead, when the other animals of a herd follow voluntarily, but they cannot compel others to follow. Social and gregarious animals combine for self-defence, as horses against wolves; or for attack, as a pack of dogs in pursuit of their prey; but the weak never combine to defend one another against the strong of the same

(29) *Pro Cluent.* c. 46.

Compare Ovid, *Epist. ex Ponto*, i. 2, v. 127-8, of Augustus—

' Multa metu poenae, poenâ qui pauca coerces,
Et jacit invitâ fulmina rara manu.'

See Puffendorf, viii. 3, § 9.

According to Gellius (*Noct. Att.* vi. 14), three grounds of punishment had been assigned by philosophers: viz., correction or reformation, vengeance, and example. Of the last he says as follows:—'Tertia ratio vindicandi est, quæ *παράδειγμα* a Græcis nominatur, cum punitio propter exemplum est necessaria, ut ceteri a similibus peccatis, quæ prohiberi publicitus interest, metu cognitæ poenæ deterreantur.' Seneca (*Clem.* i. 22) makes three ends of punishment—1. Reformation; 2. Example; 3. Removal of dangerous men.

(30) It is difficult to know when Bayle is in earnest, but the following passage from his *Dictionary*, art. 'Rorarius,' not. F, appears to show that he believed in the exemplary influence of punishment upon animals:—'Ochin, au commencement de ses *Labyrinthes*, examine toutes les raisons qui nous persuadent que nous agissons librement; et il dit, entre autres choses, contre celle qui est tirée de la punition des malfaiteurs, que si les juges étoient assurés qu'en faisant pendre un cheval qui auroit tué un homme, et en le laissant pendu longtemps sur les grands chemins, on empêcheroit les autres chevaux de faire du mal, ils se serviroient de ce supplice toutes les fois qu'un cheval auroit estropié ou tué quelqu'un par ses ruades ou par ses morsures. Apparemment il ne savoit pas qu'on se sert de ces spectacles en quelques pays, pour contenir en leur devoir les bêtes féroces. Rorarius en a été témoin oculaire; il a vu deux loups pendus au gibet dans le pays de Juliers; et il a observé que cela fait plus d'impression sur les autres loups, que la marque d'un fer chaud, et la perte des oreilles, &c. n'en fait sur un voleur. Il dit aussi, qu'en Afrique l'on attache en croix quelques lions pour épouvanter les autres, et que l'on s'en trouve bien.'

The following anecdote is characteristic of the irrational vindictiveness of a barbarian tyrant:—'Muley Ishmael kept forty cats, which he distin-

species.⁽³¹⁾ They have no sense of humanity or compassion for any animal of their own kind; they never assist one wounded, or sick, or fallen. On the contrary, a wounded deer is attacked and gored by other stags of the herd. The verses of Shakspeare which refer to this habit of the deer are applicable to the whole animal kingdom:—

Then let the stricken deer go weep,
The hart ungalled play.

The life of animals is principally occupied in procuring their food. In the assiduity of their labour for this purpose, they equal, if they do not exceed, man. Some of them even store up a provision for the future.⁽³²⁾ Many animals likewise form a temporary union for purposes of reproduction: and both parents for a time rear and feed their offspring. Birds are even said to teach their young to fly.⁽³³⁾ The maternal feelings of the female

guished each by its name, and fed plentifully himself. One day, making a parade of his justice, being told that one of his cats had eaten a rabbit, he was determined to inflict an exemplary punishment on this wicked cat. Accordingly, he commanded an executioner to seize the cat, drag her through the streets of Mequinez with a cord round her neck, whip her severely, and cry aloud—'Thus does my master treat scoundrel cats.' After this the criminal was to be beheaded; all which was punctually executed.—Chenier's *Morocco*, vol. i. p. 339.; add. of Eng. translator.

On punishments of animals, see Selden, *ubi sup.* lib. i. c. 5. Dogs were crucified alive, in an annual religious rite, by the Romans, as a commemorative punishment for their silence when the capitol was scaled by the Gauls: while public honours were shown to the geese for their noise on the same occasion.—Plin. *H. N.* xxix. 14; x. 26.

(31) Jupiter established this law, that animals should devour one another, because there is no justice in them; but he implanted justice in man.—Hesiod. *Op.* 274.

(32) 'Principio generi animantium omni est a natura tributum, ut se, vitam, corpusque tucatur, declinetque ea que nocitura videantur, omniaque que sint ad vivendum necessaria anquirat et paret, ut pastum, ut latibula, ut alia generis ejusdem. Commune autem animantium omnium est conjunctionis appetitus, procreandi causa, et cura quedam eorum que procreata sunt.—Cic. *de Off.* i. 4.

The necessity of food for supporting life, and of generation for perpetuating the race, which is common to men and animals, gave rise to the fanciful idea, adverted to above, of a natural law common to men and animals. See above, p. 16, note 16.

(33) 'Dum monet, aptat opus puero, monstratque moveri,
Erudit infirmas ut sua mater aves.'

Ovid. *de Art. Am.* ii. 65.

Respecting the care of animals for their progeny, see Lord Kames, *History of Man*, b. i. sketch 6, app.

parent are peculiarly active and acute; she makes every exertion to obtain food for her young, and exposes her life for their sake.⁽³⁴⁾ But the parental feelings of animals towards their offspring are limited to the period of helplessness, and cease with the necessity for assistance.⁽³⁵⁾ They beget neither lasting tenderness on the one side, nor gratitude on the other. So long as the mother retains her young, she is strongly attached to them; she nurses them, and defends them at the risk of her own life. But when they are gone she does not regret them, or, at least, the regret is very short-lived. She feels no lasting grief for their loss.

The family, considered as including the relations of adults, and as continued in a series of several generations, is essentially human. An animal family is limited to the relation of parents and offspring during the period of nurture. A young animal recognises a mother, and sometimes both parents; but no animal acknowledges any ulterior relationship, either in the ascending and descending, or collateral line. No animal recognises the fraternal relation; and the connubial relation is dissolved when the young have been reared. Hence the idea of incest is wanting in animals.⁽³⁶⁾ No animal shares in the feeling which leads a man

(34) See the interesting passage of Leroy, *ib.* p. 77-81. Goguet (*Origine des Loix*, tom. i. p. 218) refers to a species of toad (hence called *Bufo obstetricans*), in which the male assists the female in disposing of her eggs. This species occurs in France, but not in England. The obstetric assistance of cats, mentioned by Gassendi (as cited by Goguet), appears to be fabulous.

(35) On the affection of birds for their young, and its discontinuance when it is no longer necessary, see Addison, in the *Spectator*, Nos. 120, 121.

(36) 'Coeunt animalia nullo
Cetera delicto, nec habetur turpe juvenec
Ferre patrem tergo; sit equo sua filia conjux;
Quasque creavit init pecudes caper; ipsaque ejus
Femine concepta est, ex illo concipit ales.
Felices, quibus ista licent! Humana malignas
Cura dedit leges, et quod natura remittit,
Invida jura negant.'

Speech of Myrrha, in Ovid, *Met.* x. 324-31.

Stories respecting the repugnance of the camel and horse to incestuous connexion are related in Aristot. *Hist. An.* ix. 47. The same fable with

to perceive a continuity between himself and his ancestors, and to take an interest in the members of his family who lived several generations before him. All the ideas of property and honours, as descendable in families, are founded on a feeling which is exclusively human. Though animals fear pain, they have not an idea, and therefore an anticipation, of death.⁽³⁷⁾ No animal is distressed, or alarmed, by witnessing the death, or seeing the dead body, of one of its own species. For this reason, it may be safely affirmed that the story of animals in captivity having committed suicide from *ennui* is false.⁽³⁸⁾ An animal may have accidentally killed itself, as a moth flies into a burning candle, but not knowing what death is, it could not have intentionally committed suicide.

Inasmuch as animals have no idea of death, they do not bury their dead; still less do they perform any rites of sepulture, or show any marks of respect to the remains or memory of the

respect to the camel is repeated by Ælian, *Nat. An.* iii. 47, (compare Camus, *Notes sur l'Hist. d'An. d'Aristote*, p. 188,) and that respecting the horse by Ælian, *Nat. An.* iv. 7; Antigon. *Hist. Mirab.* c. 54, ed. Westermann; Varro, *de Re Rust.* ii. 7; Plin. *Nat. Hist.* viii. 64; Oppian, *Cyn.* i. 236-70. Seneca says, contrary to natural history—

'Ferre quoque ipsæ veneris evitant nefas,
Generisque leges inscius servat pudor.'

Hipp. 913-14.

As to the porphyryion and the stork resenting the conjugal infidelity of their mistress, Ælian, *Nat. An.* iii. 42; viii. 20. As to the jealousy of elephants and lions with respect to their own females, *ib.* xi. 15; Plin. *Hist. Nat.* viii. 17. Compare Selden, *ib.* lib. i. c. 5.

(37) 'Les bêtes n'ont point les suprêmes avantages que nous avons; elles en ont que nous n'avons pas. Elles n'ont point nos espérances, mais elles n'ont pas nos craintes; elles subissent comme nous la mort, mais c'est sans la connoître: la plupart même se conservent mieux que nous, et ne font pas un si mauvais usage de leurs passions.'—Montesquieu, *Esprit des Loix*, liv. i. ch. 1.

(38) See Comte, *Cours de Philosophie Positive*, tom. iii. p. 786. Through the kindness of Professor Owen, I have learnt, with respect to suicidal beasts in captivity, that the only cases at the Zoological Gardens which could in any way be so interpreted, are those of some few that, under the irritation of skin disease, pick, scratch, and eat away parts, so as to bring on ulceration and death. 'A hyæna (he adds) has been known to begin at a sore toe, and eat away its own leg as far as the trunk. Monkeys nibble away their tails. How far the nervous irritation from captivity may induce this act is questionable. I believe the irritation to be merely local.'

deceased. Apparently an animal suffers no pain at seeing the dead body of one of his race devoured by birds or beasts:—

Viva videns vivo sepeliri viscera busto.⁽³⁹⁾

For the same reason, no animal has any of the religious ideas which are connected with the posthumous existence of the soul, with its continuance in a disembodied state, and with a system of future rewards and punishments.

Man, on the other hand, has an idea of death. He anticipates his own death with various feelings, among which fear predominates. He is capable, however, of hating life, and therefore may, and sometimes does, commit intentional suicide. He sympathises with the fear of death felt by other men, and therefore can protect and assist them against it. He even feels a tenderness for the life of animals, which they are incapable of feeling for one another. He has invented an art of medicine, with a view of prolonging life, as well as other contrivances, having indirectly the same end. He regrets the death of kinsmen, friends, and persons whom he respects or admires. He treats the remains of his own species with respect: a cannibal is an object of intense abhorrence among every nation above the savage state. He inters them in the earth, or treats them with other sepulchral rites, and erects monuments and inscriptions to the memory of the dead. He wears dress of a certain colour, and other marks of mourning, in token of his grief for their loss. All the feelings which are connected with the reverential treatment of dead bodies, with their preservation by mummification and embalming, or with the erection of monuments and epitaphs to the departed, are purely human. These feelings are doubtless much strengthened by the belief in the immortality or posthumous existence of the human soul; but their great antiquity, and wide diffusion, even among the most savage tribes,⁽⁴⁰⁾ shows that they would exist, though perhaps in a diminished degree,

(39) *Lucret.* v. 991.

(40) See *Gen.* xxiii. 19, 20. *Herod.* iv. 71, 127.

even if the soul were conceived as mortal. Monuments and epitaphial inscriptions to animals, though expressive of a real feeling of affection, are, indeed, generally considered as sports of the imagination.

Animals kill one another, even those of the same species, for food: and they fight, from other motives, so as to cause death.⁽⁴¹⁾ But killing, for the sake of extinguishing life, is peculiar to man. Both the preservation and the destruction of life, on its own account, are exclusively human. Medicine and the care of the sick, on the one hand, and war and murder on the other, are distinctive attributes of our race.⁽⁴²⁾

(41) Compare Bayle, *Dict. Barbe*, note C. M. Comte considers the carnivorous organization of man as the principal cause of his destructive tendencies; and he remarks that, while the destructive nature of the carnivorous animals has led to no consequences beyond the satisfaction of their brutal appetites, it became in man the cause of war, which was the primitive cause of civilization, by uniting scattered families and tribes, and preparing the way for a permanent peace.—*Ib.* tom. v. p. 92, 178. It is true that war was a necessary condition for the formation of political societies, and the foundation of regular government; but can it be said with truth, that the carnivorous nature of man is the main cause of war? Even in a savage state men do not fight merely to satisfy their appetite for animal food; and even when they fight for food, they may fight for corn or fruit, as well as for game or flocks and herds.

(42) In one sense, therefore, the saying, 'homo homini lupus,' unduly disparages the possible goodness—in another, it diminishes the possible malignity, of human nature. (See Erasm. *Adag.* p. 459.) The Greek proverb, ἄνθρωπος ἀνθρώπου δαίμωνιον (Zenob. i. 91), 'homo homini deus,' represents the good side of human nature. The former saying is in Plautus, *Asinar.* ii. 4, 88. 'Lupus est homo homini, non homo, quum qualis sit non norit.' The latter is borrowed by Cæcilius ap. Symmach, *Ep.* x. 104. (*Poet. Lat. Scen. Fragm.* vol. ii. p. 152: ed. Bothe.) 'Homo, sacra res homini,' in Sen. *Epist.* 95, § 33, appears to allude to the latter proverb. Σοφοὶ σοφοὺς σέβουσιν, ἢ ζῶν σοφοί, is a proverbial verse, probably from a tragic writer, in Plutarch, *Anton.* c. 80.

A wicked man will do infinitely more harm than a brute: Aristot. *Eth. Nic.* vii. 7. When man is improved he is the best of animals; but without law and justice he is the worst of all. Injustice, with arms in its hands, is the most pernicious of all things.—*Pol.* i. 2, *ad fin.*

'Quum tibi proponas animalia cuncta timere
Unum præcipio tibi plus hominem esse timendum.'

Dionys. Cato, *Dist.* iv. 11.

'Bruta licet solcant animalia jure timeri,
Omnibus est illis plus metuendus homo.'

Avian. *Fab.* xvii. 19.

Aristotle (*Pol.* iii. 16) opposes the dominion of law to that of human discretion, and says, that the introduction of the latter element is equivalent to the rule of a wild beast. Compare the remarks of Gibbon on this

All races of men appear to have conceived the soul as existing separately from the body, and as capable of continuing after death, and have incorporated various ideas respecting metempsychosis, posthumous reward or punishment, visitation of the living by disembodied souls, or exaltation of souls of the dead into gods and demigods, in their religious system.

Generally, animals are destitute of any religious notions; they appear to be incapable of conceiving anything supernatural or supersensual. Lactantius, who thinks that most of the faculties of brutes differ only in degree from those of man, makes the capacity for religion their characteristic distinction.⁽⁴³⁾

Man, both physically and mentally, is more liable to disease than animals. The liability to disease, in fact, is a distinctive mark, if not a privilege, of man as a rational being. Without reason and its attendant qualities, a being with an organization so tender and fragile, so liable to morbid affections, and so helpless in infancy and sickness, as man, would soon become

passage (*Decline and Fall*, c. 22). The destructive qualities of man have likewise been brought into comparison with the agents of external nature.

The historian (says Gibbon, c. 26) may content himself with an observation, which seems justified by experience, that man has much more to fear from the passions of his fellow-creatures than from the convulsions of the elements. Compare the treatise of Dicaearchus, cited by Gibbon, as described by Cic. *de Off.* ii. 5.

(43) 'Nullum est animal, ut ait Cicero [*De Leg.* i. 8], præter hominem quod habet aliquam notitiam Dei. Solus enim sapientiâ instructus est, ut religionem solus intelligat. Et hæc est hominis atque mutorum vel præcipua vel sola distantia. Nam cetera quæ videntur hominis esse propria, etsi non sint talia in mutis, tamen similia videri possunt. . . . Quod si horum omnium, quæ ascribi homini solent, in mutis quoque deprehenditur similitudo, apparet solam esse religionem, cujus in mutis nec vestigium aliquod nec ulla suspicio inveniri potest. Religionis est propria justitia, quam nullum aliud animal attingit.' (*De Ira Dei*, c. 6.) A fabulous story is told in Plin. (*Hist. Nat.* viii. 1), of certain elephants in Africa, which performed religious rites to the new moon.

M. Comte, indeed, is of opinion that the higher species of animals are capable of a sort of coarse fétichism; and that some, under human influence, even arrive at a slight rudiment of polytheism. He does not, however, particularize the facts on which these opinions are founded. 'Je suis convaincu que les animaux assez élevés pour manifester, en cas de loisir suffisant, une certaine activité spéculative (et beaucoup d'espèces en sont assurément susceptibles), parviennent spontanément, de la même manière que nous, à une sorte de fétichisme grossier, consistant toujours à supposer les corps extérieurs, même les plus inertes, animés de passions et de volontés plus ou moins analogues aux impressions personnelles du

extinct.⁽⁴⁴⁾ Reason is one of the main conditions for the maintenance of the human species; and, as such, deserves the consideration of the physiologist, not less than instinct in brutes.

Animals in a wild state are occasionally subject to murrains, by which large numbers of them are destroyed; ⁽⁴⁵⁾ but they are comparatively exempt from disease.⁽⁴⁶⁾ In general they die

spectateur. Une judicieuse exploration de l'intelligence des animaux ne laisse aucun doute sur la réalité de cette similitude essentielle, sauf la différence fondamentale que présente l'incontestable aptitude de l'entendement humain à se dégager graduellement de ces ténèbres primitives, qui, pour les autres organismes, même les plus éminens, doivent, au contraire, indéfiniment persister; excepté, peut-être, chez quelques animaux choisis, un faible commencement de polythéisme, qu'il faudrait d'ailleurs attribuer surtout au contact humain.'—*Cours de Phil. Pos.* tom. v. p. 36, and compare p. 126 (note), where the statement that the higher animals attain to a sort of feticism is repeated.

(44) 'In many species the young animal seems to be, from the first, in the full possession of its senses, and has considerable power of active locomotion; in general, however, it is very dependent upon its parent, only being able to obtain food when this is placed within its immediate grasp. Such is the case with the human infant, which is closely dependent upon its parent during a larger proportion of its existence than is the young of any other animal. Here, again, therefore, we perceive the application of the general law, that the higher the grade of development a being is ultimately to assume, the more does it require to be assisted during the early stages of its progress. In the case of man, the prolongation of this period has a most important and evident influence upon the social condition of the race; being, in fact, one of the chief means by which the solitary are bound together in families.'—*Carpenter's Human Physiology*, § 45.

(45) As to the existence of contagious disease in wild animals, see *Cumming's Hunter's Life in South Africa* (vol. i. p. 138). For the history of epizootic diseases from the earliest times, see *Paulet, Recherches Historiques et Physiques sur les Maladies Epizootiques*, 2 vols. Paris, 1775.

Poetical accounts of epidemics in wild animals, as that in the *Georgics* of Virgil, where not only horses and cattle, but wolves, deer, birds, serpents, and fish, are described as included in the pestilence, are manifestly fabulous (iii. 480, 537-47). Similarly Ovid, *Met.* vii. 545-8; Silius, xiv. 594-7. Aristotle (*Hist. Nat.* viii. 19, 20) describes fishes as exempt from pestilential diseases, such as horses and cattle, and some other tame and wild viviparous quadrupeds, are subject to.

(46) In this respect, savages approach wild animals: 'Severe diseases are rarely seen by the casual visitors of savage tribes. Death is their doctor, and the grave their hospital.'—*Cooke Taylor, Nat. Hist. of Society*, vol. i. p. 24.

The following fabulous description of the ancient African nations applies rather to animal species than to men:—'Genus hominum salubri corpore, relox, patiens laborum; plerosque senectus dissolvit, nisi qui ferro aut bestiis interiere: nam morbus haud saepe quemquam superat.'—*Sallust, Bell. Jug.* c. 17.

by natural decay, temperature, or starvation, or fall a prey to other animals. As they are domesticated, they approach more nearly to the human state, and then become liable to morbid affections. Horses, cattle, and sheep have their diseases, and even their veterinary treatment; and wild animals, confined in menageries, become victims to their artificial state, and often die of disease. The limits to population among animals differ essentially from the limits to population in mankind. By comparing the conditions of human increase and decrease, as laid down by Malthus, with the conditions of animal population, the nature of this difference will be apparent.

The mental powers and cerebral functions of animals being less refined than those of man, and of a coarser texture, are less subject to derangement. Insanity is peculiar to man; animals are never mad. What is called madness in dogs is hydrophobia. Now hydrophobia is an acute disease, which kills in a few days; whereas insanity may be chronic, and may last during a long life.

Animal, like human, population is limited by the power of obtaining food. The pursuit of food fills up the chief part of the waking life of animals; (47) but animals merely take the food which offers itself spontaneously to them; they cannot cultivate the earth, or keep other animals to be used for their nourishment. If an animal does not find food, he cannot produce it artificially. No animal is deterred from food by any other feeling than his own individual appetite and sense of hunger. In his choice he is influenced exclusively by his own desire of eating. Man, however, is guided by a sense of propriety and

(47) 'Tout animal qui passe successivement de la chasse au sommeil, et qui par conséquent n'est pas sujet à l'ennui, ne peut avoir que trois motifs qui l'intéressent et qui deviennent les principes de ses connoissances, de ses jugemens, de ses déterminations et de ses actions: la recherche de sa nourriture, les précautions relatives à sa sûreté, et le soin de se procurer une femelle lorsqu'il est pressé du besoin de l'amour.'—Leroy, *Lettres*, p. 20. 'Les bêtes ne connaissent point cet état qui fait le tourment de l'homme oisif et policé. Elles ne sont excitées à l'attention que par les besoins de l'appétit, ceux de l'amour, et la nécessité d'éviter le péril.'—*Ib.* p. 71.

usage in his choice of food; there is a standard of what is fit for human food, independent of individual tastes and appetites. This standard is, in each country, maintained by public opinion, and is only dispensed with on occasions of necessity, such as blockades and shipwrecks. Animals in a wild state consume the food which they can obtain, and which satisfies their appetite; but they form no factitious tastes, like man; their food is uniform and unimproved.⁽⁴⁸⁾ The artificial tastes in eating, and the love for intoxicating drinks, with which man is sometimes reproached, distinguish him from the animals. It appears, however, that animals in a wild state are, with respect to the quantity of their food, kept within the limits consistent with health and life chiefly by the difficulty of procuring it. Domesticated animals will eat whatever is placed within their reach, and owe their life to the prudence of their keepers or attendants. Animals have instinctive preferences for certain kinds of food, and their instinct directs them to seek the food which their teeth, claws, beaks, or other offensive organs, enable them to seize, which their throat can swallow, and their stomach can receive and digest. In a domesticated state they can, within certain limits, adapt their appetite to the food furnished to them by their master; but they always eat their food in the state in which they find it, or in which it is given to them, and they never cook it artificially. The bees alone perform a process which bears some analogy to cookery. Honey does not exist until it is made by them artificially.

Animals are capable of providing a habitation for themselves. Thus, beavers build,⁽⁴⁹⁾ birds construct nests, bees make combs,

(48) 'Atqui non Massica Bæchi
Pocula, non illis epulæ nocuere repostæ.
Frondebis et victu nascuntur simplicis herbæ;
Pocula sunt fontes liquidi, atque exercita cursu
Flumina.'

Virg. *Georg.* iii. 526-30 (*of oxen*).

(49) 'On ne s'est pas borné à dire que les castors avoient des mœurs sociales et des talens évidens pour l'architecture, mais on a assuré qu'on ne pouvoit leur refuser des idées générales de police et de gouvernement, que leur société étant une fois formée ils savoient réduire en esclavage les

and wasps and other insects make cells, foxes and rabbits burrow, and other animals find a shelter in natural caves. But here their constructive and adaptive powers appear to stop. No animal provides for himself any artificial covering, or can produce artificial warmth. A fire is an infallible sign of man. Animals, moreover, are destitute of the sense of bodily shame. The powers of locomotion possessed by animals are, in the aggregate, greater than those of man. Flying is a natural movement of birds and insects, and swimming of fish, whereas man cannot fly, and swims and dives imperfectly. But animals cannot contrive any means of artificial transport.

Animals clean themselves, from motives of bodily comfort, and (what is remarkable) they afford one another mutual assistance for this purpose. But they have no sense of beauty, and never ornament their body. The peacock appears to us to be proud of his plumage;⁽⁵⁰⁾ but this is probably our imagination, just as we think that the song of the nightingale and turtle dove is expressive of grief.⁽⁵¹⁾

Animals have no fondness for music. The song of birds, though musical, is instinctive; it seems to be an expression of satisfaction on their part, but not to convey pleasure to other birds; nor is there any reason to suppose that birds listen with pleasure to the music of instruments or of human voices, though

voyageurs, les étrangers; qu'ils s'en servoient pour porter leur terre, traîner leur bois; qu'ils traitoient de même les paresseux d'entr'eux qui ne vouloient, et les vieux qui ne pouvoient pas travailler; qu'ils les renversoient sur le dos, les faisoient servir de charrette pour voiturer leurs matériaux; que ces républicains ne s'assembloient jamais qu'en nombre impair; pour que dans leurs conseils il y eût toujours une voix prépondérante; que la société entière avoit un président; qu'ils avoient des sentinelles établies pour la garde publique.'—Buffon, *Histoire Naturelle*, *Quadr.* tom. iii. p. 52.

(50) 'Laudatas ostentat avis Junonia pennas:

Si tacitus spectes, illa recoudit opes.'

Ovid. *de Art. Am.* i. 627.

'Laudatas homini volucris Junonia pennas

Explicat, et formâ muta superbit avis.'

Med. Fac. 33.

'Gemmantes laudatus expandit colores, adverso maxime sole, quia sic fulgentius radiant.'—Plin. *H. N.* x. 22.

(51) Compare the remark of Socrates, in the *Phædo* of Plato, § 77, p. 85.

some singing birds can imitate artificial music.⁽⁵²⁾ Animals have no sense of the ridiculous, and never laugh. They have no games, no toys, no pastimes, no amusements; though their young sometimes play and gambol.

Animals can communicate their feelings to one another for certain purposes. But they cannot persuade, or ask a question, or make a hypothesis. Interrogation is peculiar to the human race. Animals search, but only for a practical end, such as obtaining food, or finding their young. They hunt with the former object. Hence scientific experiment, for the purpose of ascertaining a fact, and torture, for the purpose of extorting a confession of the truth, are purely human contrivances. Animals, being destitute of the power of using a language, not only are unable to converse or reason, but are ignorant of proper names for individuals. Men give proper names to animals, and an animal recognises his name; but animals cannot give proper names to one another. That which we call the countenance is (as Cicero remarks) peculiar to man.⁽⁵³⁾ Animals are capable of practising deceit and concealment, both to procure their prey and to avoid danger. Their deceit, however, is not positive; it simulates nothing; it consists only in escaping observation.

Man is the only animal which can combine sociability and solitude. Other animals are either solitary or social; man is both alternately. A tiger or a fox is a solitary animal, except when he forms a temporary union for purposes of generation and rearing his offspring. On the other hand, horses, oxen, deer, pigeons, bees,⁽⁵⁴⁾ and other animals of various orders, are sociable

(52) The song of birds, and the closer approach which they make to human speech than any other animal, gave rise to the idea of their prophetic powers: as the doves of Dodona, and the woodpecker of Mars, which were supposed to utter oracles.—See Herod. ii. 55-7; Dion. Ant. Rom. i. 14.

(53) *De Leg.* i. 9.

(54) Virgil describes the bees as alone forming a community, having a common habitation, similar to a city, and being governed, like a state, by laws:

Solæ communes natos, consortia tecta
 Urbis habent, magnisque agitant sub legibus ævum;
 Et patriam solæ, et certos novere penates.

Georg. iii. 152-4:

and gregarious.⁽⁵⁵⁾ But a tiger is never gregarious, and an elephant, a dog, or an ox, in the natural state, is never solitary. Man in the savage state, or in the semi-civilized portion of a civilized society, approaches to those animals which constantly herd together. But civilization develops the taste for occasional solitude, without which no refinement of feeling and no sustained thought are possible; while, at the same time, they strengthen the social, and weaken the antisocial feelings, and increase the pleasures derived from society.⁽⁵⁶⁾ The monks of the Thebaid, on the other hand, went into the opposite extreme;

Shakspeare likewise alludes to their living in a regulated community, like a state.

‘So work the honey bees;
Creatures, that, by a rule in nature, teach
The art of order to a peopled kingdom.
They have a king, and officers of sorts;
Where some, like magistrates, correct at home;
Others, like merchants, venture trade abroad;
Others, like soldiers, armed in their stings,
Make boot upon the summer’s velvet buds,’ &c.

Henry V. act i. sc. 2.

Leroy, however, remarks with truth, that, considered as subjects of accurate observation, bees are less instructive to us than the higher mammalia:—‘*Les insectes sont trop loin de nous pour que les détails de leur industrie n’échappent pas, en grande partie, à nos observations, et pour qu’on sache précisément quel degré d’intelligence ils mettent dans leurs ouvrages. La république des lapins, l’association des loups, les précautions, les ruses, bien caractérisées des renards, la sagacité que montrent les chiens dans leurs rapports multipliés avec nous, sont plus instructives que tout ce qu’on vous dit de l’industrie des abeilles.*’—*Lettres Philosophiques*, pref. p. xvii.

(55) Among the vertebrata, the reptiles alone (with the exception of frogs) appear to be never gregarious.

(56) ‘Unworthy as the dissipation and pleasures of the world would appear to me to be of the avidity with which they are pursued, I equally disapprove of the extravagant system which inculcates a total dereliction of society, which will be found, when seriously examined, to be equally romantic and impracticable. To be able to live independently of all assistance, except from our own powers, is, I acknowledge, a noble effort of the human mind; but it is equally great and dignified to learn the art of enjoying the comforts of society with happiness to ourselves, and with utility to others. While, therefore, I exhort my readers to listen to the advantages of occasional retirement, I warn them against that dangerous excess into which some of the disciples of this philosophy have fallen.’—*Zimmermann on Solitude*, p. 4, Engl. trans. ed. 1804.

‘The habit of thinking with steadiness and attention can only be acquired by avoiding the distraction which a multiplicity of objects always creates; by turning our observation from external things, and seeking a situation in which our daily occupations are not perpetually shifting their course, and changing their direction.’—*Id.* p. 19.

and instead of combining solitude and society, they suppressed the social element in man, and attempted to become solitary animals, like the bear, the lion, or the eagle.⁽⁵⁷⁾

This detailed comparison exhibits clearly the fundamental incapacities for political government and progressive civilization under which all animals, as distinguished from man, labour. As the animals form no enduring family relations, they are wanting in the origin of all political association. The family, as we have seen, is the germ of the state: political grows out of patriarchal rule. No animal can reach even that state of savage dominion described in the *Odyssey*, where each Cyclops lords it in his own cave over his wives and children. Again, animals cannot conceive a general command; they are only influenced by punishment inflicted on themselves: they can form no notion of obligation, or right and wrong, except so far as it arises from individual correction. They have no idea of religion, of creation, of a superintending providence, or of an order of nature. Though their nature is often sociable,⁽⁵⁸⁾ they seem to have no sympathy with the sufferings of their own species, and no disposition to succour them, with the exception of their own offspring while in a helpless state. With the single exception of construction for purposes of habitation, they can make nothing artificial. They are, therefore, incapable of political society, even in its stationary form.⁽⁵⁹⁾ Still less are they capable of political government as a means of progressive improvement. An animal

(57) Concerning the sociability of animals, see Flourens *de l'Instinct*, p. 63-82. According to Aristotle, a *μονῶνς βίος* is inconsistent with happiness.—*Eth. Nic.* i. 9; x. 9.

(58) Hobbes (*De Cive*, c. 5, § 5; *Leviathan*, c. 17, commented by Puffendorf, vii. 2, § 4) explains the reasons why animals can live together in societies without any political government. In like manner Leroy (*Lettres*, p. 65-70) shows, that although some animals are gregarious, they are not sociable in the same sense in which men are sociable; they form no association for mutual assistance. Concerning the social nature of animals, see Lord Kames, *History of Man*, b. ii. sketch 1.

(59) Algernon Sidney (*Discourses concerning Government*, ch. ii. § 8) lays it down that 'beasts know not what government is.' Lord Kames (*ib.*) cites some instances of government and punishment among animals, which may be safely treated as fabulous.

species is continued by the same law as the human species: there is the same successive removal by death, and replacement or addition by procreation. But there is no national continuity in an animal race; the species is perpetuated, but its successive generations are not combined by the moral and intellectual ties which constitute a nation.

§ 5 An individual animal, while in a state of nature, is capable of a progress of intelligence: thus, an old wolf, or an old fox, is more cunning and adroit in catching its prey and avoiding danger than a young one.⁽⁶⁰⁾ 'Old birds are not caught with chaff,' is a proverb literally, as well as metaphorically true. Personal experience teaches wisdom of a certain sort, even to animals. But the effects of this experience do not go beyond the individual which acquires it. The improved intelligence of an aged animal does not serve as a stepping-stone to facilitate the movements of its successors: in wild animals, there is no progress from parent to offspring, from senior to junior, from one generation to another.⁽⁶¹⁾

(60) 'Les vieux loups et les vieux renards, que la nécessité a mis souvent dans le cas de vérifier leurs jugemens, sont moins sujets à se laisser frapper par de fausses apparences, mais plus précautionnés contre les dangers réels. Comme une crainte déplacée peut leur faire manquer leur nuit et les réduire à une diète incommode, ils ont un grand intérêt à observer. L'intérêt produit l'attention, l'attention fait démêler les circonstances qui caractérisent un objet, et le distingue d'un autre; la répétition des actes rend ensuite les jugemens aussi prompts et aussi faciles qu'ils sont sûrs.'—Leroy, *ib.* p. 34.

'I was at the same time delighted in observing that deference which the rest of the pack paid to each particular hound, according to the character he had acquired amongst them. If they were at a fault, and an old hound of reputation opened but once, he was immediately followed by the whole cry; while a raw dog, or one who was a noted liar, might have yelped his heart out, without being taken notice of.'—*Spectator*, No. 116.

(61) The doctrine of the metempsychosis naturally suggested itself to the mind, with respect to the unprogressive and identical generations of animals. Or it might be supposed that animals derived a temporary supply of vitality from the great reservoir of the *anima mundi*, which was restored at their death: see Virg. *Georg.* iv. 219-227. But man, having a personal character, could not, with equal speciousness, be supposed to be destitute of a soul appropriated to himself. As to various opinions on the soul of beasts, see Bayle, art. *Pereira*, notes E.—H. *Rorarius*, and *Sennertus*.

The only progress of which an animal species, as distinguished from a single animal, is susceptible, arises from the influence of man. Though animals cannot be civilized, they can be domesticated. Several of the higher mammalia, and some species of birds (especially those of gregarious habits), have been tamed by the hand of man.⁽⁶²⁾ Their shyness and ferocity have been mitigated, their habits have been modified by correction, certain lessons have been inculcated upon them, and their forms and colours have been varied by a proper selection of individuals for breeding.⁽⁶³⁾ The artificial habits instilled by man into animals may likewise sometimes become hereditary in the race, as pointing in dogs.⁽⁶⁴⁾ The only general progress, therefore, of

(62) On the taming of animals, see the remarks of Socrates, in Xen. *Mém.* iv. 3, § 10. The influence of the *hand* of man in the taming of animals is indicated in the Greek χειροθήης, and the Latin *mansuetus*. *ruborēs* appears to be derived from the same root as *τίθημι*, and to refer to the tameness of an animal reared by the hand. There was a class of persons under the Roman empire whose profession it was to tame savage animals, such as lions, leopards, &c., named *mansuetarii*. See Armandi, *Histoire Militaire des Elephants*, (Paris, 1843,) p. 522. *Zahm*, Germ. and *tame*, Engl. appear to be connected with the Greek *δαμῶν*, and the Latin *domare*. These words are properly applied to breaking a horse, (whence *ἰνυδάμος*,) ox, elephant, &c. The French word *apprivoiser* means to appropriate, *privatum reddere*. See Roquefort in *apriver*.

(63) 'It is generally supposed that cultivation is the most productive cause of varieties in the kind, both in the animal and vegetable kingdom. But it may be questioned, does cultivation actually give rise to entirely new varieties, or does it only foster and propagate those which have sprung up naturally, or, as it is termed, accidentally?'

'In this latter way, the influence of art is very important in constituting breeds—as of cattle, dogs, horses. The artificial process consists in a careful selection of those individual animals which happen to be possessed, in a greater degree than the generality, of any particular characters which it is desirable to perpetuate. These are kept for the propagation of the stock, and a repeated attention is paid to the same circumstances, till, the effect continually increasing, a particular figure, colour, proportion of limbs, or any other attainable quality, is established in the race, and the uniformity of the breed is afterwards maintained by removing from it any new variety which may casually spring up in it.'—Pritchard's *Researches into the Physical History of Mankind*, vol. ii. p. 557.

All arguments as to the progressive variation of species, derived from domestication, (see Lyell's *Principles of Geology*, b. iii. c. 1, on Lamarck's theory,) are liable to this objection, that domestication only proves their *potential* variability. No species, subject only to natural influences, could ever, *in fact*, have undergone any changes similar to domestication.

(64) See Leroy, *ut sup.* p. 107. Lyell's *Principles of Geology*, b. iii. c. 3.

which animals are capable is, that some of them are sufficiently intelligent and docile to become, for certain purposes, the servants of man, and to obey his will.⁽⁶⁵⁾ When, however, the new qualities developed by domestication have been acquired, all further progress is impossible. No human tuition can raise the dog or the horse above the degree of intelligence and usefulness which they have now reached. Moreover, domestication is only kept up by art. It lasts only so long as man is at hand to exercise his mastery. It must be maintained by the continued application of the cause which first produced it. If a tame animal is turned loose, it relapses into the savage state; its form degenerates, and its colour becomes uniform. Animal nature returns to wildness after domestication, as the earth returns to wildness after cultivation, if human care ceases.

§ 6 We have already seen that men, and various animal species, agree in the common attribute of sociability, though men alone add political government to association. The society which men and animals severally form does not, however, comprehend their entire species. Association implies propinquity, and propinquity is only possible within certain limits of space, and under certain conditions of communication. There is no society of the entire human race; as there is no society of the entire species of monkeys, beavers, sheep, or antelopes; of plovers, mackerel, bees, ants, or locusts. Hence both men and animals, when they associate, form themselves into certain herds,

(65) F. Cuvier arranges the several orders of mammalia in the following series, with respect to their intelligence. He places the rodentia at the bottom of the scale; next the ruminantia; above them the pachydermata, at the head of which are the horse and the elephant; next, the carnivora, at the head of which is the dog; and the quadrumana, at the head of which are the orang-outang and chimpanzee.—*Flourens de l'Instinct*, p. 37. F. Cuvier likewise considers sociability as a necessary condition for domestication. No solitary animal, he says, can be domesticated. He considers the cat as imperfectly domesticated, and as forming no exception to this rule.—*Ib.* p. 63-82. It is remarkable that the monkey, notwithstanding its sociability, its intelligence, its approximation to the human form, and the use which it can make of its fingers, on both its hind and fore limbs, is incapable of domestication.—*Ib.* p. 80. All the tame birds appear to be gregarious, such as the common fowl, the goose, the duck, the pigeon, the swan, &c.

flocks, troops, flights, shoals, or bodies of a limited magnitude, and the society, properly so called, is confined to this aggregate.⁽⁶⁶⁾

Such a society of animals may be stationary, and have a fixed dwelling-place, as is the case with bees, who live only for a year. But gregarious animals are for the most part migratory; they do not remain within any certain territory; the want of food carries them long distances, whether they walk, fly, or swim. Man, before he has attained to the habits of civilized life, often wanders about the earth in search of food, like the lower animals; and he may preserve his migratory habits, not only while the society is still in a natural, or non-political state, but also when it has acquired an established though rude government. Savage tribes have in general no fixed territory; they migrate as their wants impel them; and, moreover, nomad societies have no appropriate district:⁽⁶⁷⁾ they occupy land only for temporary use or cultivation, moving from one place to another like birds of passage. So long as a tribe is in this state—so long as it is a non-political society—its unity is preserved, like that of a herd of wild animals, by the act of separate association and by the succession of generations. But the bonds of union are feeble, and probably they are soon dissolved.

§ 7 When a body of men have constituted a political society, its continuity is preserved by the maintenance of the unity of the government. Such a body constitutes a *nation*, and through the continuity of its government preserves its national unity. If that nation is in a tolerably advanced state of civilization, its political

(66) 'No social animal, as far as can be discovered, has an appetite for associating with the whole species. Every species is divided into many small tribes; and these tribes have no appetite for associating with each other: on the contrary, a stray sheep is thrust out of the flock, and a stray bee must instantly retire, or be stung to death.'—Lord Kames, *History of Man*, b. ii. sketch 1.

(67) The Tartars are thus characterized by Gibbon:—'The connexion between the people and their territory is of so frail a texture, that it may be broken by the slightest accident. *The camp, and not the soil, is the native country of the genuine Tartar.* Within the precincts of that camp his family, his companions, his property, are always included; and in the most distant marches, he is still surrounded by the objects which are dear, or valuable, or familiar to his eyes.'—*Decl. and Fall*, c. 26.

existence is likewise closely connected with the occupation of a definite *territory*. Its continuous political existence is recognised through the unity of its national government and of its national territory. Beyond the limits of its territory, the legal operation of its government does not extend. Within those limits, its government is supreme. Identity of territory, indeed, (as we have already observed,) is not necessary to the continuity of a political society. The Athenians did not lose their nationality during the interval when they were expelled from their territory by Xerxes; and if the entire Phocæan community had emigrated when their town was taken by Harpagus, and had found a vacant territory on which to settle, they would have retained their political continuity.⁽⁶⁶⁾ Again, portions of old territory may be lost, and new acquisitions of territory may be made, by a state, without the loss of its national unity. But under the ordinary circumstances of a civilized, or even semi-civilized community, its political existence is combined both with a national government and a national territory.⁽⁶⁷⁾

Political society, therefore, is essentially national. The human race does not form one vast community under a single government: it is distributed into innumerable fractional societies, of which perhaps the majority are under political rule; and of these again the majority form distinct nations, with a determined and appropriate territory. The several nations which together

(68) Hence Horace speaks of the *civitas* of the Phocæans leaving their native land.

‘Phocæorum
Velut profugit exsecrata civitas,
Agros atque lares proprios habitandaque fana
Apris reliquit et rapacibus lupis,
Ire pedes quocunque ferent, quocunque per undas
Notus vocabit aut protervus Africus.’

Epod. xvi.

(69) See Vattel, b. i. c. 18, 19.

‘In rude ages, under the appellations of a community, a people, or a nation, was understood a number of men; and the state, while its members remained, was accounted entire. . . . With polished and mercantile states, the case is sometimes reversed. The nation is a territory, cultivated and improved by its owners; destroy the possession, even while the master remains, the state is undone.’—Ferguson, *ib.* p. 381.

constitute the human race are distributed over the earth in distinct bodies: most of them under its own separate government, though entertaining certain relations with each other.

§ 8 A nation under a common government is a political body, and it is renewed by a perpetual succession. But the number of its members is not defined like that of a sovereign or subordinate political body within a state. The vacancies caused in the community by death or emigration are replenished by new births, or by the admission of new citizens; but the action of these opposite causes is not equally balanced, and consequently the total number of persons in the community is always fluctuating. Under ordinary circumstances, the successive generations by which the national existence is perpetuated consist of persons born within the national territory. Political society being essentially national, and the continuity of a nation depending on the perpetual succession of generations of men, we will next attempt to fix, with as much precision as we are able, the meaning of the word *generation*.

In strictness, it is only a family which has generations. Each of the successive descending steps in a pedigree represents a generation. A grandfather, a son, and a grandson, for example, are three generations. The same is true of the pedigree of a horse or dog, or of any other animal whose parentage can be determined.⁽⁷⁰⁾ A generation in chronology is the difference between the lives of each successive father and son. Thus, if a grandfather is born in 1700, and dies in 1760; if a son is born in 1725, and dies in 1775; and if a grandson is born in 1755,

(70) The pedigrees of the Arab horses are well known. See Voltaire, *Histoire de Charles XII.* liv. vii.

The Arab horses, called *kochlani*, are said to be furnished with written pedigrees, going back for two thousand years; though the lives are defective for some centuries. They are reported to have all come originally from the stud of Solomon.—Niebuhr, *Description d'Arabie*, p. 142-3.

The pedigrees of animals which are recorded in such publications as the *Racing Calendar*, &c., are intended merely to show the direct descent of each animal, with reference to the question of breeding; but they are as authentic as those of the Heralds' College.

and dies in 1800, leaving a son born in 1782, there would be three generations between 1700 and 1782, consisting of twenty-five, thirty, and twenty-seven years; which would give an average of twenty-seven years and one-third to a generation. When chronologists reckoned time by generations, they formed an average value for their unit by this method of computation.⁽⁷¹⁾ It follows that if man never died, but in other respects his nature was the same as at present, the succession of generations would be computed in the same manner.

But an aggregate of contemporary individuals of the same species cannot be properly said to form a generation, except by assuming that they, and also their children, are all born respectively at the same time. As a generation is the difference between the lives of a father and a son, it cannot be computed until the births of both are given. This is the sort of rough assumption which we make when we compare the present with the last generation; and when we speak of the rising generation, we mean the sum of living children who were born about the same time. Sometimes, when we speak of former generations, we mean merely all the persons who were alive at a particular period. All these expressions, however, are metaphorical, as no succession, in fact, takes place for an entire community, but only in single families. The births of the persons composing a community are successive, not simultaneous: they follow one another day by day, and year by year; the births of their sons arise in a similar manner, and thus it is impossible to fix any point of time at which a generation of a community begins or ends.⁽⁷²⁾ National existence is

(71) See Herod. ii. 142-3, who reckons three generations to a century. Heraclitus reckoned a generation at thirty years: Censorinus *de Die Natali*, c. 17; Plutarch. *de Def. Orac.* c. 11. Diodorus, ii. 55, adopts the same computation. Homer describes the great age of Nestor, by saying that he had outlived two generations of men, and was living with the third: *Iliad*, i. 250. Compare the anecdote in Plutarch, *Cat. Maj.* 15.

(72) Hume remarks that 'one generation of men does not go off the stage at once, and another succeed, as is the case with silkworms and butterflies.' 'Human society (he says) is in a perpetual flux, one man every hour going out of the world, another coming into it.'—*Essays*, part ii. *Ess.* 12, 'On the Original Contract.'

continuous, after the manner of a corporation. The continuity of a nation, as we have already observed, is maintained by a constant succession of new members, born or naturalised, who fill up the voids caused by death or emigration. Whereas a family is composed of a succession of single members, who succeed one another at definite intervals, called generations. The continuity of a family may be compared to that of a chain formed of single links, each of which can be measured: whereas the continuity of a nation may be compared to that of a woven cloth, the stitches of which interlace, so that its texture is not divisible into intervals or stages. It is only by treating the life of a nation as analogous to that of a succession of individuals, and thus considering a generation as a definite period of time, equivalent to a century, a decade, or a year, that we can speak of the successive generations of a nation. Understood in this sense, the word generation, as applied to a nation, conveys a distinct idea, and we may apply to the successive generations of national existence the verses in which Vincent Bourne describes the perpetual succession of years:

Interit annus,
Et subit alter,
Quem novus urget,
Et novus alter,
Intereuntem,
Interiturus. ⁽⁷³⁾

Nevertheless, we must guard against being misled by this figurative language; and we must not suppose that there are generations of a nation for any other than chronological purposes. For example, the notion that the laws or obligations of a govern-

(73) Bourne's *Corolla*, stanza xi. The contrast between the recurrent changes of nature (such as the succession of the seasons and the phases of the moon), and the definitive mortality of man, is poetically illustrated by Horace, *Carm.* iv. 7. But the well-known verses of Moschus (iii. 106) on the perpetual renaissance of vegetables (beautifully imitated by Jortin), are founded on a false antithesis. Plants, like man, have a limited life; and the suspension of their active powers during winter is analogous to hybernation in animals. A vegetable, like an animal species, is perpetuated by a succession of generations. The death and renewal of the leaf is an accidental and extraneous phenomenon.

ment are not binding on future generations, is founded on a misconception of the nature of national continuity.

§ 9 The preceding observations appear to be sufficient for characterising the nature of political government and political society, and for showing the distinctive qualities which render man alone, of all the inhabitants of the earth, a political animal. Having examined in a general manner the idea of political society, we will next inquire how much this idea involves, and what is the extent of the subjects which are properly included in the domain of politics.

Politics relate exclusively to the acts of man. Although political government is influenced by many physical conditions, and although a knowledge of outward nature, and of the useful arts, may be essential to political science and practice, yet politics, as such, are confined to human action ; and view all other subjects with reference to this end.

Politics relate to human action so far as it concerns the public interests of a community, and is not merely private or ethical. Human action, thus defined, consists of—1, the acts and relations of a sovereign government, both with respect to its own subjects, and other sovereign governments; 2, the acts and relations of members of the political community, so far as they concern the government, or the community at large, or a considerable portion of it.

It seems to be agreed that politics include everything which relates to the construction of a sovereign government, and to its immediate acts, legislative, executive, or otherwise. Hence, jurisprudence is admitted to be a part of politics. Nor is it likely to be disputed that international law falls under the same head. For although international law is not law in the strict sense ; yet, as it relates exclusively to the relations of sovereign governments, and without them could have no existence, it surely must be considered as a department of politics.

There are, however, other portions of the science of human action, as to which there is more difference of opinion respecting their inclusion or non-inclusion in the domain of politics.

One of these is Political Economy. The extension of the term *Economy* from domestic to political management, from the stewardship of the family to that of the state, is of great antiquity.⁽⁷⁴⁾ The scientific treatment, however, of the natural laws which govern the production and distribution of wealth—the subject of political economy—is of comparatively recent date. Many of the writers who have treated the science of political economy, have objected to its name, as not being sufficiently comprehensive. It has appeared to them that the natural laws which govern the production and distribution of wealth are independent of political government, and of the political union; and that they have reference only to the higher abstraction of society. Thus Storch makes political economy a branch of social science, while he distinguishes social science from politics. He considers social science as concerned with theory, and politics with practice. ‘Social science,’ he says, ‘has two objects. One is to discover the natural laws which regulate the development of the human race; or, in other words, the natural mechanism which produces the prosperity of nations. The other is to discover what is just in the social relations of men; in which case it assumes the name of universal law. Politics, on the other hand,’ he says, ‘is properly the science of government, for purposes of practice. The characteristic function of politics is to point out not only what is just, but also what is expedient, in the different situations in which nations may be placed.’⁽⁷⁵⁾ Say lays it down that political economy is the economy of society; and he thinks that social economy would have been a better name for this science. Nevertheless, he considers society as civil

(74) The second book of the *Oeconomics*, attributed to Aristotle, refers to national or political, not domestic economy. The introduction to this treatise lays it down, that there are four sorts of economy, viz.—1, of kings; 2, of satraps; 3, of free cities; 4, of private persons. For economy defined according to the Stoic doctrine, see Stob. *Ecl. Phys.* ii. 7, vol. ii. p. 188; ed. Heeren.

(75) Storch makes both ‘la science sociale’ and ‘la politique’ branches of the general ‘science de l’état.’ He therefore includes social science in the ‘science de l’état,’ or politics in the generic sense, as distinguished from practical politics, or politics in the specific sense.—*Cours d’Economie Politique*, tom. i. p. 12-20. *Discours Préliminaire*, with the annexed table.

society, inasmuch as he says that the term is synonymous with *πόλις*, civitas, and *la cité*.⁽⁷⁶⁾

Mr. Mill, in his *Essay on the Definition and Method of Political Economy*, takes a similar view. 'Political Economy (he says) does not treat of the production and distribution of wealth in all states of mankind, but only in what is termed the social state.' . . . 'Man, who, considered as a being having a moral or mental nature, is the subject-matter of all the moral sciences, may, with reference to that part of his nature, form the subject of philosophical inquiry under several distinct hypotheses. We may inquire what belongs to man, considered individually, and as if no human being existed besides himself; we may next consider him as coming into contact with other individuals; and, finally, as living in a state of society—that is, forming part of a body or aggregation of human beings, systematically co-operating for common purposes. Of this last state, political government, or subjection to a common superior, is an

(76) 'L'économie politique n'est pas autre chose que l'économie de la société. Les sociétés politiques que nous nommons des nations, sont des corps vivans, de même que le corps humain. Elles ne subsistent, elles ne vivent, que par le jeu des parties dont elles se composent, comme le corps de l'individu ne subsiste que par l'action de ses organes. L'étude que l'on a faite de la nature et des fonctions du corps humain, a créé un ensemble de notions, une science, à laquelle on a donné le nom de *physiologie*. L'étude que l'on a faite de la nature et des fonctions des différentes parties du corps social, a créé de même un ensemble de notions, une science, à laquelle on a donné le nom d'*économie politique*, et qu'on aurait peut-être mieux fait de nommer *économie sociale*.'—Say, *Cours d'Economie Politique*, tom. i. p. 1. Again, M. Say remarks that political economy ought to be treated as a science which lays down the laws of phenomena, not as an art which gives precepts. He then adds:—'C'est peut-être à l'erreur des physiocrates (que je relève ici) que l'on doit le nom d'économie politique qu'ils ont donné à cette science, et qu'on ne trouve dans aucun écrivain antérieur. Adam Smith, sans partager cette erreur, l'a favorisée en adoptant la denomination d'une science, que, selon moi, il eût mieux fait de nommer *économie sociale*.'—*Ib.* tom. vi. p. 387.

M. Say (*ib.* tom. vi. p. 288) draws a distinction between *public* and *political* economy, for which I can see no good ground. He says that *public* economy concerns a particular nation; whereas, *political* economy concerns any nation, or society in general.

The objections of other writers (as Sir James Mackintosh, *Dissertation on the Progress of Ethical Philosophy*, Works, vol. i. p. 8, and Archbishop Whately, *Lectures on Pol. Ec.* p. 3) to the term political economy, founded on the word economy, do not require to be here noticed.

ordinary ingredient, but forms no necessary part of the conception, and, with respect to our present purpose, needs not be further adverted to.'⁽⁷⁷⁾

Political economy, considered as a science of positive facts, has only to deal with man in a political state. Of man, considered merely as a social animal, as living a Cyclopiian life, in a state of nature, or anarchy, it takes no account. If it adverts sometimes to the economical transactions of mankind in a savage state, this is done incidentally, and in the way of illustration. The subject-matter of political economy consists of the economical relations of men living in civilized societies, with established governments, and a recognised right of property. Political economy, moreover, generally assumes a fixed occupation of the soil, the use of money, and other elementary institutions of a civilized society, which, though generally diffused through the European and American, and even the Asiatic, communities, are, nevertheless, inseparably connected with political government. The doctrine of taxation is an important branch of political economy, which necessarily supposes the existence of political government. Moreover, even those economical questions, such as the natural laws of prices, wages, rent, &c., which appear to be merely *social* (as, indeed, they are often called), and to be independent of political government, nevertheless imply its existence. All inquiries into these subjects suppose a fixed right of property—and without political government, no rights of property can exist. Accordingly, Mr. Mill, when he proceeds to set forth in detail the subjects about which political economy is employed, assumes throughout a state of things in which political government is not a casual, but a necessary ingre-

(77) *Essays on some unsettled Questions of Political Economy*, p. 133-4. In his *Principles of Political Economy*, vol. i. p. 25, Mr. Mill says:—'In so far as the causes [of the economical condition of nations] are moral or psychological, dependent on institutions or social relations, or on the principles of human nature, their investigation belongs not to physical, but to moral and social science, and is the object of what is called political economy.'

dient, and which, without political government, would not continue, or even arise, except on a scale too small for scientific notice. 'It shows mankind (he says) accumulating wealth, and employing that wealth in the production of other wealth; sanctioning by mutual agreement the institution of property; establishing laws to prevent individuals from encroaching upon the property of others by force or fraud; adopting various contrivances for increasing the productiveness of their labour; settling the division of the produce by agreement, under the influence of competition . . . and employing certain expedients (as money, credit, &c.) to facilitate the distribution.'⁽⁷⁸⁾ Now, upon an examination of the several elements of economical science here specified by Mr. Mill, it will be apparent that they all imply the existence of political government. Without political government, there can be no security for the accumulation of wealth, or for its employment in producing other wealth; there can be no institution of property—no contrivances (except mechanical or physical contrivances) for increasing the productiveness of labour; no security for the equitable division of the produce; no expedients, such as money or credit, to facilitate the distribution. Political economy, it is true, considers the relations of trade between persons belonging to different nations, and so far may be thought to regard man merely as a social, and not as a political being. But even in this case, each party to the exchange is considered as belonging to his own state; and, in this respect, political economy is analogous to international law, which will probably be admitted by all to be a department of politics, in the genuine sense of the term.

All things affecting the economical relations of mankind, not included in domestic economy, belong to political economy. Besides these two, there is no third class. There is no social economy which is neither domestic nor political, which is neither private nor public.

M. Say, in inquiring what are the organs essential to a

(78) *Essays*, &c. p. 138.

society, without which society cannot exist, decides that government is not one of them. His principal ground for this conclusion is, that societies may exist and even prosper with various forms of government. But if societies in an advanced state of civilization, to which M. Say properly confines his view, all agree in having some form of political government, it surely cannot, from the fact that those forms differ, be inferred that political government is accidental and not essential to civilized society.⁽⁷⁹⁾ The form, size, number, arrangement, and consistency of the vertebræ may differ in the several species of vertebrate animals; but it would be a strange argument to infer from this diversity that the existence of vertebræ is accidental in the vertebrata.

It may perhaps be said that political economy ought to be considered rather as analogous to ethical science, which often refers to political institutions and legal relations, as something which exists, but is nevertheless not regarded as a branch of politics. Thus the moral duties of kindred, such as parent and child, husband and wife—or of domestic relations, such as master and servant, imply the existence of legal rights. Ethics likewise may teach what is due from subjects to rulers, beyond the strict obligation of submission to the law, and what is due from rulers to subjects, in point of personal demeanour and moral bearing. In ethics, however, men are considered principally in their private relations to each other, and without refer-

(79) ' Sous ce rapport, il est permis d'élever la question de savoir si une société peut exister sans aucun gouvernement. Je ne me jeterai pas à cet égard dans une discussion spéculative; je remarquerai seulement qu'il y a quelques exemples de sociétés, comme celle de certains peuples en Arabie ou en Tartarie, dont il serait difficile de caractériser le gouvernement; mais ces peuples n'appartiennent pas à un état très-avancé de la civilisation, qui est celui que nous étudions. Ce qui m'a plutôt déterminé à regarder le gouvernement comme une des circonstances accidentelles où se trouvent les sociétés, c'est qu'on y rencontre des exemples de toutes les sortes de gouvernemens. . . . L'économie politique ne considère pas les motifs qui dirigent les gouvernemens, mais leurs actes; et pour elle, tout commandement en vertu duquel on est tenu d'obéir, soit qu'il parte du législateur ou de l'autorité exécutive, est également un acte du gouvernement.'—*Id.* tom. vi. p. 331.

ence to legal rights and duties; so that ethical science stands on a different foundation from political economy. It is rather analogous to domestic economy; to that branch of economy which considers the relations of a family as distinguished from those of a state. Nevertheless, so important is the influence of civil government upon the whole circle of human actions, that Aristotle treats ethics as a department of politics. He includes not only strategies, œconomics, and rhetoric, but also ethics, under political science, which he considers as the master-science; and as comprehending within itself all the ends of human life aimed at by the other sciences.^(m)

It is true that in ethics reference must not unfrequently be made to the existence of political government and law; so that ethical presupposes political science. But inasmuch as ethics consider men exclusively in their private relations, independently of the community, they may properly be separated from politics.⁽ⁿ⁾ Where, however, man is avowedly treated with reference to society at large, and not with reference to individuals, it ought to be assumed, as a fundamental principle, that this society is

(So) Ἐπειδὴ προαιρούμεθα λέγειν ὑπὲρ ἠθικῶν, πρῶτον ἀν εἴη σκεπτέον τίνας ἐστὶ μέρος τὸ ἦθος. ὥς μὲν οὖν συντόμως εἰπεῖν, δοκεῖ οὐκ ἄλλῃς ἢ τῆς Πολιτικῆς εἶναι μέρος. . . . μέρος ἐστὶν ἄρα, ὥς ἔοικε, καὶ ἀρχὴ ἡ περὶ τὰ ἦθη πραγματεία τῆς πολιτικῆς. *Mag. Mor.* i. 1. See also the description of πολιτικὴ in *Etā. Nic.* i. 1, which he concludes thus:—ἡ μὲν οὖν μέθοδος τούτων ἐφίεται, πολιτικὴ τις οὕσα. Compare i. 13. x. 9. All the subordinate communities, considered in ethics, form a part of politics, viii. 11. ὥστε συμβαίνει τὴν ῥητορικὴν οὖν παραφνέει τι τῆς διαλεκτικῆς εἶναι, καὶ τῆς περὶ τὰ ἦθη πραγματείας, ἣν δικαίον ἐστὶ προσαγορεύειν Πολιτικὴν, *Rhet.* i. 2, § 7. ἡ ῥητορικὴ σύγκειται μὲν ἐκ τε τῆς ἀναλυτικῆς ἐπιστήμης, καὶ τῆς περὶ τὰ ἦθη πολιτικῆς, *ib.* i. 4, § 5. As to Aristotle's view of the relation of ethics to politics, see Biese, *Philosophie des Aristoteles*, vol. ii. p. 287—96.

D'Alembert, on the other hand, considers politics as a department of ethics.

La politique, espèce de morale d'un genre particulier et supérieur, à laquelle les principes de la morale ordinaire ne peuvent quelquefois s'accommoder qu'avec beaucoup de finesse, et qui, pénétrant dans les ressorts principaux du gouvernement des états, démêle ce qui peut les conserver, les affaiblir, ou les détruire. Etude peut-être la plus difficile de toutes, par les connoissances qu'elle exige qu'on ait sur les peuples et sur les hommes, et par l'étendue et la variété des talens qu'elle suppose.—*Discours Prél. de l'Encyclopédie; Œuvres*, tom. i. p. 218.

(81) Compare Mill, *Essays*, &c., p. 134.

political society. This, and no other form of society, is the appropriate characteristic of mankind. Whenever human society is in question, man ought to be considered as something more than a mere gregarious animal; he ought not to be regarded only as living in a herd, like a troop of wild animals, without a common superior, or a system of positive law. Human society, to the philosophic inquirer, is political society; and therefore the 'social science,' or 'sociology,' of which Mr. Mill (⁸²) has so well described the limits and object, and for the investigation of which he has laid down the conditions with so much precision, appears to be in fact no other than political science. In the analysis of human society, no advantage will be found in abstracting from the idea of political government. It is of the essence of human society to be divided into several communities, each under its own national government. All the scientific researches relating to human society—whether in the way of observation or of the investigation of causes, as well as all general maxims intended for the guidance of political practice—are conditioned by this peculiarity of the social state of man. It is undoubtedly possible to consider human society without reference to civil government, just as it is possible to consider bodies in motion without reference to friction. But in dynamical problems, it is conve-

(82) See his *System of Logic*, b. vi. c. 6, 9, 10. 'The science of society (he says, vol. ii. p. 535) would have attained a very high point of perfection, if it enabled us, in any given condition of social affairs, in the condition, for instance, of Europe or any European country at the present time, to understand by what causes it had, in any and every particular, been made what it was; whether it was tending to any, and to what changes; what effects each feature of its existing state was likely to produce in the future; and by what means any of those effects might be prevented, modified, or accelerated, or a different class of effects superinduced. There is nothing chimerical in the hope that general laws, sufficient to enable us to answer these various questions for any country or time *with the individual circumstances of which we are well acquainted*, do really admit of being ascertained; and, moreover, that the other branches of human knowledge, which this undertaking presupposes, are so far advanced that the time is ripe for its accomplishment. Such is the object of the social science.' See also Mr. Mill's *Essays*, &c., p. 135. M. Auguste Comte's views respecting sociology, and the method of its treatment, are expounded in the three last volumes of his *Cours de Philosophie Positive*. Comp. tom. i. p. 22, 48.

uient to omit the element of friction ; in social problems, it is not convenient to omit the element of civil government ; for civil government is of the essence of human society. It forms the characteristic distinction between human and animal communities, and it is the main instrument of progressive civilization, which is the highest attribute of human nature.

We shall have frequent occasion, in the course of this treatise, to inquire how the phenomena of human society are to be studied in relation to the existence of political government. For the present, therefore, it will be sufficient to say, that we shall understand the province of politics as comprehending all those acts and relations of men, which have not a determinate individual reference, but regard an entire independent community, or some large and indeterminate portion of it. With all these, political government, in the social constitution of human nature, is necessarily, more or less, concerned ; and therefore they properly fall within the limits of political science, taken in its widest signification.

CHAPTER III.

ON THE DIVISION OF POLITICS INTO
DEPARTMENTS.

§ 1 **WE** have in the previous chapter attempted to trace the limits of the province of politics, and to show how it is separated from other subjects. We now turn from its external to its internal relations; and proceed to inquire how this province is to be mapped out, and how the boundaries of its several districts are to be drawn within its extreme confines.

Politics, taken in its largest sense, may be divided into four principal departments; each of which, though it comprehends numerous subjects, and admits of further subdivision, has a distinctly marked characteristic. These departments are :—

- 1 The registration of political facts.
- 2 Positive or descriptive politics.
- 3 Speculative politics.
- 4 Maxims of political practice.

We propose to explain summarily, in this chapter, the leading distinctions between these four departments of politics; the peculiarities of each will be further developed in the course of the treatise, as they successively become the subjects of more detailed examination.

§ 2 All scientific theorems in politics, all general maxims for the guidance of political practice, and, indeed, all practical measures taken in individual cases, must rest ultimately upon observed facts. The observation of political facts is the first step; but observation, by itself, avails little, unless the observed fact is recorded in such a manner as to insure its preservation. The first department of politics, therefore, serving as a foundation for all the rest, is that which concerns the regis-

tration of political facts. This department may be described generally as consisting of history and statistics: but it includes all the methods adopted for preserving in an authentic and permanent form the memory of political facts as they occur. This department may be considered as the entrance and propylæa to politics. It furnishes the materials upon which the artificer operates, which he hews into shape, and builds up into a symmetrical structure.

§ 3 Positive or descriptive politics is that branch of politics which teaches what is necessarily involved in the idea of political government. It considers political government, as much as possible, *in equilibrio*; and it thus corresponds to the statical branch of mechanics. We have already seen that man has a capacity for command, or obedience, peculiar to himself, and not shared by other animals, which enables him to form a political community under a common government. The government thus formed is not accidental in its structure: it is conditioned by the permanent properties of human nature, by the constitution of the human mind, and by the nature of the medium in which our life is cast. Hence, though made by man, and in this sense arbitrary, it must, in order to be, and to remain, a political government, fulfil certain conditions. The positive or descriptive department of politics undertakes to assign these conditions; it undertakes to define the elements necessary to constitute a government; and to show how these are modified in its various possible forms.⁽¹⁾ It explains the nature of the instruments by which a government operates: as a law, rights and obligations, sanctions, executive commands, and the like. It thus includes, or, indeed, to a certain extent, is co-extensive with universal jurisprudence, in the proper sense of the term:⁽²⁾ that is to say, the science which teaches what law is in every country, without reference to the varieties of national systems of jurisprudence.

(1) This idea is expressed by Conring. *Diss.* xiii. 'De Necessariis Civitatis Partibus.'—*Opera*, vol. iii. p. 748, ed. fol.

(2) See Austin's *Province of Jurisprudence*, Outline, p. iii.

Again, with reference to the relations of independent states, it shows how sovereign governments act towards one another, and by what means international law is maintained. Many of the problems of political economy belong likewise to this branch of politics. The definition of the principal terms used in political economy—such as *wealth, value, exchange, profit, rent, &c.*, and the determination of the elements necessarily involved in the leading economical relations, are properly of a positive or descriptive character.

The positive branch of politics does not pass any judgment upon the goodness or badness of forms of government, laws, or institutions: nor does it inquire into their probable operation or tendency. It explains, for example, what is a monarchy, what is an aristocracy, what is a democracy; but it does not teach whether either of these forms of government is more or less likely than another to promote the welfare of the community; except so far as its tendency may be inferred from its definition. It shows what is the nature of punishment, and of criminal law; but it does not teach which punishments are most efficacious, or what are the effects produced by the different forms of criminal law. It expounds the relations of master and free servant, and of master and slave, and it shows in what the difference between them consists; but it does not trace their respective consequences, or inquire into their comparative influence upon the happiness of the community, and the state of the working classes. It explains the nature of a dependency, but it does not attempt to define the cases in which it is advisable to place a territory under a separate but subordinate government. It teaches the nature of a colony, but without undertaking to describe the circumstances which may render the foundation of a new colony expedient, or to enumerate the conditions for its success. It illustrates the manner in which sovereign governments act upon one another, and treats of the imperfect sanctions by which international law is enforced: but it does not pretend to decide which rules of international law are good or bad, or how the evils against which it is intended to

guard may be best prevented. It shows what are the acts which constitute an exchange, and what is the difference between an exchange effected by simple barter, and an exchange effected by the use of money; but it does not attempt to trace the respective consequences of these sorts of exchanges, in facilitating the production or distribution of wealth, or in promoting trade.

If any writer on positive politics affirms that all men are born free and equal, this assertion is to be taken as an assertion of a general fact, without reference to the expediency of such a state of things. It is, therefore, wholly different from the assertion of the opinion that all men, in a well-regulated state, ought to be born free and equal. Not unfrequently, however, there is in politics a confusion between the assertion of a fact and the assertion of an opinion; between *is* and *ought to be*. Thus, such a proposition as that all men are born free and equal, would probably not be understood, by those who advance it, to be refuted by a reference to communities where slavery exists. It would be understood to imply that, *according to natural right*, all men are born free and equal; in other words, that men, *though the fact is otherwise*, ought from their birth to enjoy equal rights. Whenever it is affirmed that a sovereign government has a *right* to do anything (e. g. to inflict capital punishment, or to make war), we may be sure that we are getting out of the domain of positive politics; and that the proposition, though in form it merely asserts a fact, yet in substance asserts an opinion. Thus, in the example referred to, a person who maintains the right of a government to inflict capital punishment, means not merely to affirm that a government possesses this power, but that it is justified in exercising it on certain occasions.

The question of utility or expediency, of a tendency to promote the good of the community, is foreign to positive politics. This department of politics may be said, in the language of the comparative anatomist, to deal only with *conditions of existence*. It considers only what is necessary to constitute a government, or a law; not what is required in order to make a good govern-

ment or a good law ; nor what constitutes the comparative goodness or badness of governments and laws.

Thus universal jurisprudence may teach, in the words of Story, that in order to make a contract valid, it must be made by parties capable to contract, it must be voluntary, it must be upon a sufficient consideration, it must be lawful in its nature, and it must be in its terms reasonably certain.⁽³⁾ But it does not attempt to determine what persons shall be capable of contracting ; what circumstances destroy the voluntary character of the act ; what constitutes a valid consideration ; what purposes shall be deemed contrary to public policy ; and what amount of uncertainty shall vitiate a contract. These are questions which the laws of different countries solve in different manners, according to various views of expediency. Hence, positive politics must be distinguished from the positive law of any given state, or from positive international law. The latter consist of positive rules, and vary according to time and place : whereas the former are necessary conditions, and are universal.

If the positive branch of politics does not profess to decide upon the goodness or badness of political institutions ; if it merely explains what they are, without inquiring into their probable influence upon the happiness of the community ; still less does it attempt to lay down any maxims of conduct, or to predict the specific effects of certain political measures.

Positive politics may be compared with that department of ethics which teaches the nature of the emotions, affections, passions, and moral sentiments—which shows what anger, compassion, envy, love, &c., is ; but without inquiring how these feelings affect the individual himself, or the person whom they concern ; and, also, without laying down any precepts with regard to them, or indicating their probable consequences in any given case. Again, positive politics may be compared with physiology ; which describes the component parts and organs of the body, and their several

(3) *Conflict of Laws*, p. 307.

functions; but without tracing their influence upon human life, or teaching how their action, when deranged, is to be restored. Or it may be compared with that elementary portion of a treatise on architecture, which teaches what a building is, and how composed, before it teaches how a building ought to be constructed: or with that portion of a treatise on strategies, which explains the nature of arms and fortifications, the composition and movements of an army, &c., before it shows how an army ought to be moved, how a battle ought to be fought, and how a campaign ought to be conducted.

§ 4 The speculative department of politics assumes that the positive department has accomplished its work. It assumes that we know what a state is; what are its functions; what are the conditions necessary for its existence; by what instruments it acts; what are its possible relations with other states. Starting from this point, it inquires how certain forms of government, and certain laws and political institutions, operate; it seeks, from observed facts and from known principles of human nature, to determine their character and tendency; it attempts to frame propositions respecting their probable consequences, either universally, or in some hypothetical state of circumstances. Thus it may undertake to determine the respective characters of monarchy, aristocracy, and democracy; it may show how each of these forms of government promotes the happiness of the community, and which of them is preferable to the other two. It may inquire into the operation of certain modes of preventing crimes—as police,—of criminal procedure, and of legal punishment, such as death, transportation, imprisonment, pecuniary fines,—and it may seek to determine the characteristic advantages and disadvantages of each, in certain assumed conditions. It may inquire into the operation of different systems of taxation—of laws respecting trade and industry—of modes of regulating the currency—of laws regulating the distribution of property with or without will—and other economical relations. It may lay down the conditions which render it expedient to govern a territory as a dependency; or which tend to promote the prosperity of a new

colony. It may define the circumstances which ensure the permanence of national confederacies, and it may inquire what are the rules of international law which would tend to promote the uninterrupted maintenance of peace.⁽⁴⁾

It seeks to lay down general theorems respecting the operation and consequences of political institutions, and measures them by their utility or their capacity for promoting the welfare of the national community to which they are applicable. Propositions of this sort may lead (though not by so direct a road as is often supposed) to preceptive maxims; but they are themselves merely general expressions of fact, and they neither prescribe any course of conduct, nor do they predict any specific occurrence; though, from the generality of their form, they may relate as much to the future as to the past.⁽⁵⁾

§ 5 The fourth and last department of politics consists of maxims of political practice. Political practice, like other branches of practice, can only receive assistance from general propositions when reduced into the form of maxims or precepts. These maxims are necessarily general in their form, and their application to the individual case, in action, must be left to the discretion of the practical politician himself. Such general maxims may either be the results of philosophical speculation, and supported by systematic reasoning, or they may be insulated apophthegms, extracted from the writings of historians, or current among the people in the shape of proverbs.

The second and third of these departments together correspond with the science of politics; the fourth corresponds with the art. They likewise correspond respectively with the division into pure and applied politics.⁽⁶⁾

(4) The difference between positive and speculative politics is shadowed out in Montesquieu's definition of the *nature* and the *principle* of a government. 'Il y a cette différence entre la nature du gouvernement et son principe, que sa nature est ce qui le fait être tel; et son principe, ce qui le fait agir. L'une est sa structure particulière, et l'autre les passions humaines qui le font mouvoir.'—*Esprit des Loix*, iii. 1.

(5) See Mill's *Essays*, p. 135.

(6) See Rau, *Prima Linea Historiæ Politicæ* (Erlangen, 1816), pp. 8-9.

§ 6 The division of the province or subject-matter of politics, which has just been traced, appears to be well-marked, and to be convenient for purposes of investigation. It may therefore be suitably adopted in a treatise which aims at describing the methods of reasoning in politics. Nevertheless, it is not pretended either that any such division has been hitherto observed by political writers, or that it ought to be invariably followed in the discussion of political questions. It is proposed with a view of assisting the political inquirer; of pointing out the best manner of arranging his own ideas, and thus of guiding his investigations; but without implying that in laying the fruits of his researches before the public he ought necessarily to keep within one of these four departments. For example: it may often be convenient to combine the second with the third; it may often be necessary for the political speculator to fix with precision the ideas and relations with which he deals, before he attempts to characterize the practical tendencies of any institution, and to determine the comparative expediency or in expediency of its various forms. Again, the treatment of the fourth department, which consists in laying down maxims, may often require a partial re-treading of ground properly belonging to the third.

On reviewing the progress of political philosophy, from its first birth under the influence of Socrates, to the present time, it will be seen that, although the various treatises and other writings admit of being distributed, by a dissection of their contents, into these several departments, few, with the exception of histories, biographies, and collections of statistical facts, fall exclusively into any one division.

§ 7 Political philosophy may, for our present purpose, be considered as consisting of three periods; namely, 1st, The period of antiquity; 2nd, The period from the revival of literature to the end of the seventeenth century; 3rd, The period from the beginning of the eighteenth century to the present time.⁽⁷⁾

(7) For an enumeration of various writings on politics, see Morhof's

The first attempt of the human mind to treat politics as a science of observation, and to establish it on the solid basis of positive knowledge, was made by the early Greek historians. Herodotus first gave an example of a copious and consecutive narrative of historical facts, derived from authentic contemporary testimony, and accompanied with instructive comment and explanation. In his speeches, he likewise introduces political argument; and, in one place, he sums up the current views of the Greeks respecting the comparative advantages of monarchy, aristocracy, and democracy; putting them, by a singular inconsistency, in the mouths of the Persian conspirators against the Magus.⁽⁸⁾ This debate, though ostensibly real and practical, is as fictitious as the dialogues in *Télémaque*, and may be considered as the earliest example of political speculation. The history of Thucydides forms by itself a great epoch in politics; both as furnishing a model of accurate, trustworthy, and impartial narrative, and as embodying all the practical sagacity of the ablest statesmen of Greece (including Pericles), who had lived before and during the Peloponnesian war. For close, cogent, and appropriate reasoning upon practical political questions, the speeches of Thucydides have never been surpassed; and, indeed, they may be considered as having reached the highest excellence of which the human mind is capable in this department. The understanding of Thucydides, however, was essentially practical; it had been trained in the school of practical politics; and though his comments on actual events are generally conceived in a philosophical spirit (as those on the plague of Athens, and on the Corcyraean sedition); yet they are strictly historical, and are suggested by his subject. It has been often remarked that art, in an empirical form, always precedes science. So much practical sagacity about the affairs of life, and so much acute political dialectics, could hardly continue long among a people with the

Polyhistor, tom. iii. lib. ii.; and the treatise of Rau, cited above. See also Rühn, *Entwurf einer Propädeutik des historischen Studiums*, Berlin, 1811.

(8) iii. 80-2.

intellectual endowments and free institutions possessed by the Greeks, without calling forth some attempts at scientific political speculation. Socrates (who was born three years after Thucydides),⁽⁹⁾ first entered upon this course. He turned the nascent philosophy of the Greeks from attempts to explore the causes of physical phenomena, to an examination of the facts of man's moral nature, and of political society. His conversations on politics—so far as they are recorded by his disciples, Xenophon and Plato—fall chiefly within the second and third departments of the division described at the beginning of this chapter. He analyzed the ideas which form the current coin of politics: he inquired what is a state, what is a citizen, what is a government, what is law, justice, &c.:⁽¹⁰⁾ he likewise entered the region of speculative politics, and traced the general tendencies and operations of particular institutions and modes of government. Moreover, he probably occupied himself with the art, or preceptive department of politics, in attempting a solution of the problem, What is the best form of government? Xenophon, however, in his *Cyropædia*, and Plato, in his two great works, the *Republic*, and the *Laws*, may be considered as the true representatives of this phasis of political investigation. The two political dialogues of Plato, though their main purpose is to construct an ideal state, and to hold it up to the imitation of mankind, nevertheless contain episodes, which consist merely of the exposition of general truths, and have therefore the scientific character. Such are the accounts of the origin of a state and of civil society,⁽¹¹⁾ and of the characteristics of the several forms of government. Such, too, is the attempt to reduce the succession of governments

(9) Socrates was born 468, and Thucydides 471, B.C. Pericles was born not later than 490 B.C.

It is doubtful whether the history of Thucydides was published during the lifetime of Socrates: but the character of the political discussion of Athens, and of Greece generally, at that period, is apparent from his work.

(10) See Xen. *Mem.* i. 1, § 16.

(11) *Rep.* ii. 11-14, p. 369-74; and compare the mythico-historical description of the origin of governments, in the *Laws*, b. iii.

to a constant cycle; which, though unsound, professes to discover a law of uniform sequence in political phenomena, without undertaking to inculcate any lesson, or to form any model institution.

Aristotle, following Plato, conceived his great political treatise in the form of a search after the best government. The introductory part, however, consists of inquiries belonging to the descriptive or positive department of politics: it aims at determining the conditions necessary for the existence of a state, and of its constituent parts, and of the several modes of government. The remaining part, though the problem is kept in view, consists in great measure of general theorems relating to the several forms and varieties of government, abstracted from observed facts. Its different portions may be distributed into the three latter departments of the division made above: but whereas the chief part of the Platonic dialogues falls into the third department, a large part of the Aristotelic treatise falls likewise into the second. Aristotle also wrote descriptions of the constitutions of 158 states, Greek and barbarian; many fragments of which are extant.⁽¹²⁾ Besides this work, which was purely local, and falls into the first, or historical department, Aristotle wrote some other political treatises, the titles of which have been alone preserved.⁽¹³⁾

Political speculation was continued by Theophrastus and Dicaearchus, disciples of Aristotle, and by other later adherents of the peripatetic school.⁽¹⁴⁾ Nor was it altogether neglected by the Stoics: Zeno propounded the model of a perfect state, but reprobated all exclusive patriotism. He taught that the wise man should be a cosmopolite, without attaching himself to

(12) See *Fragm. Hist. Gr.* vol. ii. p. 102, ed. Didot.

(13) Thus he wrote treatises on kingly government, and on colonies, and a treatise on Greek international law, entitled *δικαιώματα πόλεων*. On the latter, see Neumann, *Aristot. Rerump. Rel.* p. 43.

(14) See Cic. *de Leg.* iii. 5 and 6. Cicero mentions some material additions to the doctrine of magistracies as having been made by Theophrastus, and Dion the Stoic, after Aristotle; but we do not know what they were. Cicero likewise speaks of Panætius, another Stoic, as having treated politics.

the political forms of any particular state.⁽¹⁵⁾ But the Stoic sect seems to have occupied itself little with politics, and the Epicurean not at all.

Even historians, such as Polybius, in treating incidentally of political theories, contented themselves with reproducing the doctrines of the early philosophers;⁽¹⁶⁾ and Cicero's political treatises were avowedly written after the Platonic models. These two works, both of which have reached us in an imperfect state, and one only in fragments recovered in our own time from a palimpsest manuscript, may, like the dialogues of Plato, be distributed into the descriptive, speculative, and preceptive departments of politics; but they belong chiefly to the latter department. None of the later political writings of antiquity have any importance; the short treatises of Plutarch have the admonitory character.⁽¹⁷⁾

History remained for nearly four centuries in the exclusive possession of the Greeks. The early Roman historians either wrote in Greek, or else they scarcely rose above the meagre and jejune style of a monkish chronicle. At last, Sallust, Livy, and

(15) See Plutarch, *Alex. Fort.* i. 6.

The stoics taught the doctrine of universal philanthropy:

'Hi mores, hæc duri immota Catonis
Secta fuit, servare modum, finemque tenere,
Naturamque sequi, patriæque impendere vitam,
Nec sibi, sed toti genitum se credere mundo.'

Lucan, ii. 380-3.

'Hominibus prodesse natura jubet: servi liberine sint, ingenui an libertini, justæ libertatis, an inter amicos datæ, quid refert? Ubique homo est, ibi beneficio locus est.'—Seneca, *de Vit. Beat.* c. 24.

The Stoics, however, as well as the Epicureans, taught that the wise man ought to take no part in practical politics. Their doctrines are thus distinguished and expounded by Seneca: 'Duc maxime in hac re dissident secta, Epicureorum et Stoicorum: sed utraque ad otium diversâ viâ mittit. Epicurus ait: 'Non accedet ad rempublicam sapiens, nisi si quid intervenierit.' Zenon ait: 'Accedet ad rempublicam, nisi si quid impedi-erit.' Alter otium ex proposito petit, alter ex causâ.'—*De Otio Sapientis*, c. 30.

(16) See vi. 5.

(17) On political speculation under the Roman empire, see Gräfenhan, *Geschichte der Klassischen Philologie*, vol. iii. p. 371; vol. iv. p. 419.

Tacitus gave an independent character to Roman historiography. Unluckily, none of their longer histories have descended to us in a complete state. The Latin historical style, as formed by Sallust, is rhetorical, and deficient in simplicity. Tacitus, however, for power of description, and sagacity of observation, stands on a level with any historian, ancient or modern. The Romans likewise, by their enumerations of the population, by their valuations of property, by their maps and surveys for military, engineering, and political purposes, did more for statistics than the Greeks. They had greater practical skill in the art of government, which they exercised with a sort of professional aptitude.⁽¹⁸⁾

Besides their original efforts as observers and recorders of facts, the Romans rendered an imperishable service to politics by their systematic cultivation of jurisprudence. The judicial institutions of the Greeks were, for the most part, too unstable and unsettled, and their governments were on too small a scale, to admit of the compilation of law for juridical purposes. Amongst the Romans, however, law began to be subjected to a systematic treatment even under the Republic; and when the provinces were consolidated into one body with the paramount state, under the Empire, the necessity for fixed principles of jurisprudence, first developed by jurists in private treatises, and ultimately compiled into an authentic digest, became apparent. The Roman jurists were occupied exclusively with their own positive law, and had no thought of forming a system of universal jurisprudence. Their work, however, has proved one of the most enduring bequests made by antiquity to the modern world. The Roman law has served as a real type, upon which the jurisprudence of modern Europe has to a great extent been fashioned, and from which theoretical principles have been generalised.

§ 8 None of the four departments of politics received any material addition between the age of Justinian and the

(18) 'Tu regere imperio populos, Romane, memento,
HÆ TIBI ERUNT ARTES.'

revival of literature in the 15th century. During this interval the civil and canon law had, indeed, been cultivated, though in a mechanical manner; while political speculation had been dormant, and history had reverted to the form of dry annalistic chronicles.

The first important writer of the second of the three periods into which we divided the history of politics is Machiavel, whose lifetime extends from 1469 to 1527. Machiavel was engaged in practical politics; and his singularly acute and penetrating mind, though capable of speculation, was mainly turned to practical objects. He was acquainted with the *Republic* of Plato and the *Politics* of Aristotle, through the medium of Latin translations; and from these works he had derived his general ideas of government. He was no jurist, nor even a theologian; he had not meditated profoundly the positive or physiological structure of a state; nor had his attention been directed to the economical relations of society. His *Discorsi* and *Principe* must be referred to the preceptive class of political treatises. They belong to the art, not to the science of government. They are admonitory, and lay down a series of practical maxims of political conduct, specially intended for the use of the Italian governments in his own time. Like most other works relating to the art of politics, they often establish the general principles which they apply, and thus trench upon the speculative department of politics; their main purpose, however, is to furnish the practical politician with a manual of rules for his guidance in action; and there can be no reasonable doubt that Machiavel intended the maxims of his *Prince* to be followed in their plain and obvious sense.⁽¹⁹⁾

Passing by Paruta, who may be considered as an imitator of Machiavel, and whose works are now little read,⁽²⁰⁾ we come to

(19) Concerning Machiavel, see Stewart's *Dissertation*, p. 22-5; and for the object of the *Principe*, note C, p. 233; Hallam's *Literature of Europe*, vol. i. p. 555-64; Artaud's *Machiavel*, and the historians of Italian literature.

(20) Paruta, born 1540, died 1598. His *Discorsi Politici* are his

Bodin, whose systematic treatise *De Republicâ*, first published in French in the year 1576, went through many editions, and exercised an extensive influence in the sixteenth and seventeenth centuries. He was trained to the profession of the law, but afterwards became a man of letters. The treatise of Bodin belongs for the most part to the positive branch of politics. He undertakes to define the conditions necessary to the existence of a state, and the nature of the elements of which it is necessarily composed. Nevertheless, like most of the other scientific writers on politics, he does not confine himself within these limits, but enters likewise upon inquiries into the political forms and laws best adapted for promoting the good of the state.⁽²¹⁾ The *Politica* of Lipsius is a mere cento of passages from the ancient historians and philosophers, without any novelty of thought.⁽²²⁾ One of his countrymen, however, the celebrated Grotius, produced soon afterwards a work which constitutes an epoch in politics. Grotius was a jurist, a historian, a classical scholar, and a theologian; he also took a part in practical politics. His treatise, *De Jure Belli et Pacis*, was the result of his matured judgment; and immediately upon its publication became a text-book on the law of nations throughout Europe.⁽²³⁾ Although the work of Grotius, and that of his follower Puffendorf, are of great importance in the department of politics, yet it must be admitted that neither of them distinctly conceived, or defined with precision, the subject of which they undertook to treat. They sometimes treat of the *jus gentium* in the sense of the Roman lawyers; namely, as

best work. His treatise, *Della Perfezione della Vita Politica*, is, to a considerable extent, ethical.

(21) Concerning Bodin and his works, see Bayle, *Dict.* in v.; Stewart, *Diss.* p. 27-9; Hallam, *Lit. of Europe*, vol. ii. p. 204-31, who has given a full abstract of Bodin's *Republic*. Bodin was born in 1529, and died in 1596.

(22) Justus Lipsius died in 1606.

(23) Grotius was born in 1583, and died in 1645. His work, *De J. B. et P.* was printed in 1625. Concerning the writers on the law of nations before Grotius, see Hallam, *Lit. of Europe*, vol. ii. p. 240-9: and for a full account of the treatise of Grotius, vol. iii. p. 384-450.

natural law—sometimes they treat of it in the modern sense of international law.⁽²⁴⁾ Parts of their treatises are devoted to universal jurisprudence and to positive politics—other parts to ethical doctrine, and to the principles of criminal law. Again, where they confine themselves to international law, properly so called, they sometimes treat of international law as it is, sometimes of international law as it ought to be. It is therefore true that the idea of his subject formed by Grotius is (as Dugald Stewart has said) vague and wavering.⁽²⁵⁾ It remained for writers of the second part of the eighteenth century to produce treatises strictly confined to international law. Nevertheless, the merit of producing the first great work upon public international relations rests with Grotius; and the influence which it has exercised on the subsequent writers in that department of politics cannot be easily overrated.⁽²⁶⁾ Another eminent countryman of Grotius, Spinoza, at a later period of the same century published two treatises on political science; but the *Tractatus Theologico-Politicus* is in great measure theological, while the *Tractatus Politicus* is unfinished. The latter, though it contains much of a positive nature, is mainly devoted to the solution of the speculative problem of the best government.⁽²⁷⁾

The chief writers on politics, from the revival of letters to the middle of the seventeenth century, were Italian, French, and Dutch. Up to this time, England had done little in that department of science. Utopia, though celebrated, was desultory

(24) See below, ch. xv. § 3.

(25) *Diss.* p. 37, 46, 84-93. 'Of what stamp are the works of Grotius, Puffendorf, and Burlamaqui? are they political or ethical, historical or juridical, expository or censorial? Sometimes one thing, sometimes another; they seem hardly to have settled the matter with themselves.'—Bentham's *Introduction to the Principles of Morals and Legislation*, p. 327. This passage is cited by Mr. Stewart.

(26) See the judgment of Sir James Mackintosh upon Grotius, *Works*, vol. i. p. 351.

(27) Spinoza was born in 1632, and died in 1677. The *Tractatus Theologico-Politicus* first appeared in 1670. The *Tractatus Politicus* was a posthumous publication.

and superficial. Lord Bacon had only touched upon general politics incidentally. The earliest English writer on political philosophy was Hobbes, whose treatise *De Cive* (afterwards enlarged into the *Leviathan*) first saw the light in 1642.⁽²⁸⁾ The political writings of Hobbes are partly positive, laying down the necessary constitution of a state; partly speculative, investigating its best constitution. Although his views were so far practical, that he wished to counteract certain prevalent opinions respecting resistance to an established government, and the extension of popular rights, yet he does not lay down maxims of government, or give a preceptive form to the results of his meditations.

The *Oceana* of Harrington, which, like the writings of Hobbes, had its origin in the circumstances of the times, though Utopian in form, was in fact a practical scheme of a constitution for England after the abolition of royalty.

Algernon Sidney and Sir William Temple speculated on politics at a somewhat later period; their inquiries were directed to the origin and nature of government, as well as to the political forms most conducive to the commonweal.

Historical composition continued to be cultivated during the whole of the period from the revival of letters to the end of the seventeenth century: and it made a great advance from the rude mediæval chronicles to the works of Machiavel, Guicciardini, Mariana, De Thou, and Clarendon. The imitation of the classical models likewise called forth some scientific attempts to analyse the constituent parts of history, and to lay down rules for its treatment.⁽²⁹⁾

§ 9 The third and modern period may be considered as

(28) Hobbes was born in 1588, and died in 1679. The *Leviathan* was published in 1651. Concerning the political writings of Hobbes, see Stewart, *First Diss.* p. 40-46; Hallam, *Lit. of Europe*, vol. iii. p. 365-82. They created much controversy in the first half-century after their appearance. See the works of Cudworth, Cumberland, &c.

(29) With respect to the early Italian and French writers on the treatment of history, see Wachler, *Gesch. der Hist. Forschung*, vol. i. p. 91, 329, 403, 671. The English writers on the same subject in the eighteenth century are enumerated.—*Ib.* vol. ii. p. 612.

commencing with the political writings of Locke,⁽³⁰⁾ which were the fruit of the Revolution of 1688, as the political writings of Hobbes, Harrington, and Sidney, were the fruit of the civil war and Protectorate. Locke was the exponent of the Whig doctrines of government, to which the Revolution had given the ascendancy. His treatise has been justly described as a philosophy of the English constitution,⁽³¹⁾ according to the principles established at that crisis. Locke, indeed, treats the problem of government as a positive one; he does not formally inquire after the best constitution, nor does he profess to lay down principles of legislation. His argument is, however, so framed as to insinuate certain legislative principles, and certain political forms, under the guise of a positive description of the necessary constitution of a state. Whatever he condemns in government, he excludes from his definition; and represents a bad institution as no institution at all. A similar method was followed by Rousseau, whose *Contrat Social* (published in 1754) furnished most of the abstract principles of government which were in vogue at the beginning of the French Revolution.

The celebrated work of Montesquieu (published in 1748), is, in great measure, historical; it groups institutions under certain heads, and endeavours to account for them upon certain assumed principles. It devotes little space to the positive problem of government, and generally assumes the necessary constitution of a state to be known. Incidentally, in explaining the origin of institutions, it often lays down political maxims, and is preceptive as well as historical.⁽³²⁾ It may be remarked that the tendency of Montesquieu to refer complex institutions or states of society to simple causes, such as the form of government, has

(30) A full abstract of Locke's *Treatises on Government* is given in Buhle, *Histoire de la Philosophie Moderne*, tom. iv. p. 251-324.

(31) Buhle, *ib.* p. 323.

(32) Concerning the aim of Montesquieu's work, see Stewart, *Diss.* p. 95, whose estimate of Montesquieu, as compared with Grotius, appears to me far too favourable. See M. Comte's estimate of Montesquieu, *Cours de Phil. Pos.* tom. iv. p. 243-52.

been imitated by subsequent French writers, and has exercised a pernicious influence on political speculation in that country.

The second half of the eighteenth century, and that portion of the nineteenth century which has elapsed, have given rise to numerous writers, who employed neither the positive nor the historical method of political inquiry, but who attempted to lay down principles or canons of legislation; who professed to establish a standard for guiding the legislator; and who sought, according to Lord Bacon's phrase, to enact *leges legum*. Thus, Filangieri, in the plan of his work on the science of legislation, says, that whereas Montesquieu seeks after the spirit of laws, he endeavours to determine their rules; whereas Montesquieu is employed in showing the reason of what has been done, he attempts to deduce from the same facts the rules of what ought to be done.⁽³³⁾ Similar objects are aimed at in most of the political writings of Bentham; for whom Dumont thinks it necessary to apologise, in the preface to his *Traité de Legislation*, as laying down principles applicable to all governments, and as not being the exclusive advocate of a particular political form.⁽³⁴⁾ The important class of writers on political economy, though the foundations belong to the positive department of politics, yet in raising their superstructure have generally followed the same method.⁽³⁵⁾

The literature of politics, in all its branches, becomes so copious at the period which we are now considering, that any further attempt to characterise particular works is inconsistent with the limited scope of this chapter. We will, therefore, only say that political speculation, especially in the departments of political economy and jurisprudence, was kept alive in Italy in the eighteenth century, and marked with original thought.⁽³⁶⁾

(33) *Œuvres de Filangieri*, tom. i. p. 10: Paris, 1840.

(34) Tom. i. *Discours Préf.* p. xvii.-xix. Paris, 1802.

(35) See, particularly, Stewart's *Life of Adam Smith*, for the description of the method of inquiry pursued in his *Wealth of Nations*.

(36) See Pecchio, *Storia della Economia Pubblica in Italia*: Lugano, 1829.

History likewise received valuable contributions during this epoch from Muratori, Giannone,⁽³⁷⁾ and other Italian writers. France, also, has continued, since the celebrated names of the last century, to produce a large number of writers on every branch of politics, positive, speculative, historical, and statistical.

Germany originated that branch of descriptive politics which has received the appellation of statistics. Both the name and the separate treatment of the subject were due to Achenwall, who died in 1772.⁽³⁸⁾ History, and all its subsidiary branches—chronology, geography, archaeology, and the study of languages—have likewise been cultivated during the last hundred years with great perseverance and zeal, and with important success, by the Germans. The historical exposition of the Roman law, as well as of modern international law, likewise owes much to German jurists. But Germany has produced no speculative originality in the general department of politics.

In the modern period, the most valuable contributions to political science have come from England. Political economy, indeed, first began to assume a systematic form in the hands of the French economists; but the work of Adam Smith so far transcended all the writings of his predecessors, as to give him the fame and merits of a founder. As compared with the productions of other countries, the political writings of England have been characterised by novelty of ideas, combined with truth; they have promulgated important innovations in thought, without paradox, or strain after brilliancy of effect.⁽³⁹⁾ The Anglo-Americans likewise have contributed some useful historical works, and expository treatises of law. Their federal constitution has raised many practical questions, requiring for their solution a

(37) Muratori, born 1672, died 1750. Giannone, born 1676, died 1748.

(38) Wachler, *Geschichte der Historischen Forschung*, vol. ii. p. 856, 1152; and see Eichhorn, *Geschichte der Litteratur*, vol. iii. part i. p. 577. Zachariä *vom Staate*, vol. i. p. 184.

(39) M. Guizot has formed a less favourable opinion of the English writers on speculative politics: 'Quiconque (he says) observera un peu attentivement le génie Anglais, sera frappé d'un double fait: d'une part, de la sûreté du bon sens; de l'habileté pratique; d'autre part, de l'absence

refined investigation of positive politics ; and has also called forth a more systematic treatment of that department of jurisprudence, which has been correctly designated by the name of private international law.

§ 10 On surveying the succession of writers whom we have now indicated, it will be perceived that systematic political knowledge—which we may be provisionally allowed to call political science^(*)—has advanced, not steadily, but at intervals, since the days of Aristotle and Cicero. Practice and theory have acted reciprocally on each other. The accumulated experience of many centuries has made itself sensibly felt in improving every department of politics. Political observation has become more extensive and more exact ; its results have been more carefully registered, and those registers have been better preserved. The positive branch of politics, including jurisprudence, has been more systematically cultivated. In the speculative branch, new veins of inquiry have been opened ; and although the methods of forming general propositions, and of converting these into preceptive rules of action, which have been followed by theorists, have often been defective, yet the circle of legislative science has been enlarged, and its foundations better established.

It will be our object, in the course of this treatise, to ascertain and enumerate the proper methods for arriving at correct results

d'idées générales et de hauteur d'esprit dans les questions théoriques. Soit qu'on ouvre un ouvrage Anglais d'histoire, ou de jurisprudence, ou sur toute autre matière, il est rare qu'on y trouve la grande raison des choses, la raison fondamentale.'—*Hist. de la Civil. en Europe*, leçon 14. This judgment, in a writer of M. Guizot's capacity, must not be attributed to national prejudice ; still less are we entitled to suppose that he has merely echoed the common cry, which confines the English mind to subjects of immediate practical utility. I confess, however, that neither the writings of the English political speculators, beginning with Hobbes and Locke, and ending in the modern school of political economists, nor those of the English historians, beginning with Hume, Robertson, and Gibbon, and ending with some illustrious historians now living, appear to me to be characterised by 'the absence of general ideas, and of elevation of thought in theoretical questions.'

(40) See below, ch. xviii.

in the different branches of politics. We will, therefore, only remark, at the close of this brief outline of the progress of political literature, that one prominent defect of the scientific writers on politics, is that each one, in succession, commences *de novo*, with little or no reference to his predecessors. Thus, Hobbes founds his doctrines upon general principles of human nature, without allusion to the researches of previous writers; while Locke, a few years afterwards, publishes a similar treatise, in which there is no reference to the work of Hobbes. Sometimes this silence with respect to previous writers is even mentioned with praise, as being a mark of originality and independence of judgment. Thus, Mr. Stewart alludes with satisfaction to the fact of Montesquieu never quoting Grotius:⁽⁴¹⁾ while Grotius himself is said, on being asked who was the best writer on politics, to have advised the inquirer to take a volume of blank paper, and record in it what he saw and heard.⁽⁴²⁾

In fact, however, the study of preceding writers does not cramp the mind, or prevent real originality and independence of thought. Where their researches have been sound, it leads to truth, and prevents a person from taxing his powers of thought to re-discover what is already known. Where their speculations are erroneous, they may be suggestive, and may at all events serve to show what are the errors which require refutation.

Every scientific political writer should aim as much as possible at incorporating and superseding the works of his predecessors. So little has this object been hitherto borne in mind, that the early writings on politics remain, like works of art, with an individual character; their value not having been destroyed by the adoption, in subsequent treatises, of their correct results. This habit of continually taking a new departure from first principles, without assigning any reasons for relin-

(41) *Diss.* p. 96.

(42) 'Hugo Grotius, de optimo politices auctore rogatus, consilium dedit ut quis volumen chartæ puræ sibi conficeret, et visa auditaque in illo notaret.'—Morhof's *Polyhistor*, vol. ii. p. 491.

quishing the paths traced by previous writers, has promoted divergence of thought, and has prevented different speculators from meeting on a common ground, even to the extent of their agreement.

The determination of fixed methods of reasoning is, therefore, important, as directing the efforts of different inquirers to a common point. In proportion as similar modes of logical procedure are generally recognised, the labours of political investigators will more and more assume the character of a joint undertaking for a common purpose, instead of being, as heretofore, a series of desultory and unconnected attempts, destitute of the assistance afforded by a well-organised combination.

It is partly to this want of a common rule of action among political inquirers, that we may trace the inferior rate of progress which has marked political as compared with physical science since the commencement of the seventeenth century. The experimental methods of investigation suggested by Bacon, and exemplified by Galileo, were inapplicable to politics; and the modes of political reasoning adopted, even by eminent writers, were defective as models. The influence of the censorship exercised through the chief part of Europe—by the governments and by the church—likewise fell with great severity upon political speculation during this period, while a freer course was allowed to the physical inquirer. Besides, the facts in politics are more numerous, intricate, and fluctuating, and the reasonings founded on them are more liable to error, than in the physical sciences.

These reasons will sufficiently explain the more rapid, decisive, and brilliant advance of physical as compared with political science in the last two centuries and a half, without recurring to the supposition that political science has been cultivated by persons of inferior ability, and that the master spirits of the time were all absorbed by physical researches.⁽⁴³⁾

(43) This is the explanation given by M. Comte, *Phil. Pos.* tom. iv. p. 164, 199.

If it be true that a knowledge of human nature is the true measure of intelligence,⁽⁴⁴⁾ the investigations of political science must always possess an attraction for men of speculative tendencies, unless they are repelled by the fear of civil or religious censures. Upon an impartial review of the efforts of political philosophers since the close of the seventeenth century, it can hardly be said that they have shown any want of intellectual power. There has been no deficiency of boldness, originality, invention, or sustained flights of reasoning. But there *has* been a want of a well-devised method, and of a systematic plan of operations. Hence there has been much waste of valuable labour; the most zealous efforts have been misdirected, and the result has not corresponded with the design.

(44) See Comte, *Phil. Pos.* tom. iii. p. 440.

CHAPTER IV.

ON THE TECHNICAL LANGUAGE OF POLITICS.

§ 1 **H**AVING taken a general view of the province of politics, and of its distribution into departments, we must, before we can investigate the methods of reasoning proper to the subject, endeavour to ascertain the character of the political vocabulary, and inquire how far it facilitates or retards the logical processes in which it is a necessary instrument. In so doing, we shall bear in mind the canons laid down by Dr. Whewell for trying the fitness of a scientific or technical language,⁽¹⁾ which, though framed with a special reference to the physical sciences, admit, nevertheless, of being applied to our present subject.

‘Every step in the progress of science’ (says Dr. Whewell) ‘is marked by the formation or appropriation of a technical term. Common language has, in most cases, a certain degree of looseness and ambiguity; as common knowledge has usually something of vagueness and indistinctness. In common cases, too, knowledge usually does not occupy the intellect alone, but more or less interests some affection, or puts in action the fancy; and common language, accommodating itself to the office of expressing such knowledge, contains, in every sentence, a tinge of emotion or of imagination. But when our knowledge becomes perfectly exact, and purely intellectual, we require a language which shall also be exact and intellectual; which shall exclude

(1) See his aphorisms concerning the language of science (pp. xlvi. cxx.) prefixed to his *Philosophy of the Inductive Sciences*.

A technical term is properly a term of art; arts, however, have usually been prior, in point of time, to sciences; and hence a *technical* may be equivalent to a *scientific* term. More will be said on this subject below, in chap. xix. § 2. On the meaning of *τεχνική λέξις*, see Ernesti, *Lex. Techn. Gr. in v.*, and Hermogenes, *περὶ μεθ. δεικ.* c. 2; in *Rhet. Gr.* vol. iii. p. 403, ed. Walz.

alike vagueness and fancy, imperfection and superfluity; in which each term shall convey a meaning steadily fixed and rigorously limited. Such a language that of science becomes, through the use of technical terms.'⁽²⁾

The first efforts of science to form technical terms have naturally been made by the appropriation of those words in common discourse, whose meaning approached the nearest to that which it was desired to express. Such, for example, are the terms of geometry referred to by Dr. Whewell; many of which were formed by the Greeks in this manner, as an *angle* (γωνία) was only a corner; a *cube* (κύβος) was a die; a *sphere* (σφαῖρα) was a handball used in games; a *cylinder* (κύλινδρος) was a roller; a *trapezium* (τραπέζιον) was a table, so called because the Greek tables had one side shorter than the opposite one. Many astronomical terms, such as the *pole*, the *horizon*; and terms of anatomy and medicine, such as *fever* (πυρετός, *febris*), *cranium*, *muscle*, *vein*, *heart*; and of natural history, as the *lion*, *tiger*, *panther*, *cat*, *dog*, *horse*, *ox*, *sheep*, *crocodile*, *hippopotamus*, *rhinoceros*, &c. belong to the same class.

§ 2 It was in this manner that a large number of political terms, and especially those most employed by theoretical writers—those which represent the most comprehensive ideas, and the highest abstractions of politics—were formed. The words current in the language of ordinary life, with vague and unprecise significations, were adopted by political philosophers for their scientific purposes, and were (if we may be allowed the expression), techni-

(2) *Ibid.* p. xlviii. The following remarks of Dr. Whewell present the same view:—'Though most readers, probably, entertain, at first, a persuasion that a writer ought to content himself with the use of common words in their common sense, and feel a repugnance to technical terms and arbitrary rules of phraseology, as pedantic and troublesome; it is soon found, by the student of any branch of science, that, without technical terms and fixed rules, there can be no certain or progressive knowledge. The loose and infantine grasp of common language cannot hold objects steadily enough for scientific examination, or lift them from one stage of generalisation to another. They must be secured by the rigid mechanism of a scientific phraseology.'—*Hist. of Inductive Sciences*, vol. iii. p. 307. On the utility of technical terms, see *ibid.* vol. i. p. 11, 16.

calized. Hence, such terms as *government, state, nation, republic, citizen, law, right, duty, freedom, punishment, reward, king, judge, enemy, war, siege, marriage, property, buying and selling, master and servant, money, rent, wages, profit, &c.* were received into the technical vocabulary of politicians.

As compared with the facility so extensively enjoyed by the physical sciences of coining new technical words for the particular idea—this process is doubtless an imperfect one. ‘The inadequacy of the words of ordinary language for the purposes of philosophy, (says Sir James Mackintosh,) is an ancient and frequent complaint; of which the justness will be felt by all who consider the state to which some of the most important arts would be reduced, if the coarse tools of the common labourer were the only instruments to be employed in the most delicate operations of manual expertness. The watchmaker, the optician, and the surgeon, are provided with instruments which are fitted, by careful ingenuity, to second their skill; the philosopher alone is doomed to use the rudest tools for the most refined purposes. He must reason in words, of which the looseness and vagueness are suitable, and even agreeable, in the usual intercourse of life, but which are almost as remote from the extreme exactness and precision required, not only in the conveyance, but in the search of truth, as the hammer and the axe would be unfit for the finest exertions of skilful handiwork: for it is not to be forgotten, that he must himself think in these gross words as unavoidably as he uses them in speaking to others. He is in this respect in a worse condition than an astronomer, who looked at the heavens only with the naked eye, whose limited and partial observation, however it might lead to error, might not directly, and would not necessarily, deceive. He might be more justly compared to an arithmetician compelled to employ numerals, not only cumbrous, but used so irregularly to denote different quantities, that they not only often deceive others, but himself. The natural philosopher and mathematician have in some degree the privilege of framing their own terms of art; though that liberty is daily nar-

rowed by the happy diffusion of these great branches of knowledge, which daily mixes their language with the general vocabulary of educated men. The cultivator of mental and moral philosophy can seldom do more than mend the faults of his words by definition; a necessary, but very inadequate expedient, and one in a great measure defeated in practice by the unavoidably more frequent recurrence of the terms in their vague, than in their definite acceptance.'⁽³⁾

Notwithstanding the disadvantages indicated in this passage, we may, as far as the science of politics is concerned, safely assent to Dr. Whewell's aphorism, that 'in framing scientific terms, the appropriation of old words is preferable to the invention of new ones.'⁽⁴⁾ In fact, in a science so closely connected with practice as that of politics, an attempt to innovate upon the existing vocabulary, and to introduce not only new definitions, but also new words, can rarely be attended with success. Nevertheless, Dr. Whewell makes it a necessary condition for the soundness of this maxim, that the appropriated common word should receive a meaning fixed with rigorous precision, and should therefore be free from all ambiguity. How far this condition can be generally fulfilled with respect to common words made technical in politics, we shall inquire presently. It is, however, certain that each writer may, if he think fit, form a distinct conception of the meaning in which he uses a term, and

(3) *Dissert. on the Progress of Ethical Philosophy: Works*, vol. i. page 5.

(4) The following are the principal aphorisms established by Dr. Whewell, respecting the conversion of common into technical terms:—

'Aph. 3. In framing scientific terms, the appropriation of old words is preferable to the invention of new ones.

'Aph. 4. When common words are appropriated as technical terms, their meaning and relations in common use should be retained as far as can conveniently be done.

'Aph. 5. When common words are appropriated as technical terms, their meaning may be modified, and must be rigorously fixed.

'Aph. 6. When common words are appropriated as technical terms, this must be done so that they are not ambiguous in their application.

'Aph. 7. It is better to form new words as technical terms, than to employ old ones in which the three last Aphorisms cannot be complied with.'—pp. lxxvii-lxxi.

Aphorisms 5 and 6 might perhaps be consolidated with advantage.

he may adhere to that meaning consistently. In this manner, he will enable his readers to follow the course of his arguments, and he will save himself from the obscurity and errors in reasoning caused by the ambiguity of technical terms, which sometimes occur even in the best political writers, and in popular discussion are of perpetual occurrence.

§ 3 Exactitude in the use of technical political terms may often be observed, without violating Dr. Whewell's aphorism, which prescribes that their meaning and relations in common use should be retained as far as can conveniently be done. Thus the word *law*, as it occurs not only in the mouths of lawyers, but in ordinary discourse, has a tolerably definite sense, to which a strict technical definition can, without much difficulty, be accommodated. Theoretical writers on 'politics, however, sometimes adopt the vague sense attached to the word in the first chapter of Montesquieu's *Esprit des Loix*, according to whom it denotes the 'rapports des êtres—des hommes.' Hence arises a confusion between the law itself, and the idea or conception of the law, the grounds or motives of the law, the intention of the law, and the conditions of the law; a confusion which would have been avoided if, in the technical use of the term, the ordinary juristical notion of it had been adhered to.⁽⁵⁾

Again, the popular acceptance of a word may be unfixed and fluctuating; it may sometimes bear one, and sometimes another meaning; in which case, science may fairly call upon usage—the *jus et norma loquendi*—to make its election between the different meanings, and to adhere to one or the other. Nor ought usage to complain if science prescribes the choice, and selects that meaning which best fulfils the conditions of technical phraseology.

One of the most striking exemplifications of the ambiguous

(5) See Comte, *Traité de Législation*, liv. ii. ch. 1-5, for an exemplification of this confusion. Compare below, chap. xviii. § 7. In the conjugates of law, as *lawyer*, *legal*, *legality*, *legislation*, and *legislature*, the strict sense of the word is always preserved. That which is in accordance with the 'laws of nature' is never called legal, nor is it considered as a subject for the decision of a lawyer.

and unsettled use of technical terms in politics, is furnished by the terms *monarchy* and *republic*—terms which, together with other cognate phrases, enter into the great political controversies which agitate mankind, and are sometimes the watchwords which unite parties and divide nations. These two words—one of them of Greek, the other of Roman origin, and both now received in all civilized languages—properly signify a government in which one man rules, and a government in which several men rule.⁽⁶⁾ It happens, however, that many monarchs (that is to say, despotic or absolute princes) have borne the title of king, or of the appellatives in other languages which are equivalent to *king*; and hence, as some monarchs were kings, it was assumed that all kings were monarchs. In some countries, likewise, it happened that a line of hereditary kings, which originally had claimed or enjoyed a despotic power, and were therefore monarchs in the proper sense of the word, were in time subjected to restrictions of the regal omnipotence; so that the sovereignty was in fact shared by the king with a body, and divided among several. A government thus modified was called a *limited monarchy*—that is to say, the power of the king, having originally been monarchical, underwent limitation. For the reasons thus described, monarchy, in its general acceptation, has been considered equivalent to royal government; every king is called a monarch, and every kingdom is called a monarchy. Hence those governments of several, which are presided over by a king who is not absolute, and is therefore not properly a monarch, are called monarchies, and not republics. The only exception to this customary rule is made in the case of the Lacedæmonian government; which, inasmuch as it had a *double* line of hereditary kings, is called a republic, not a monarchy.⁽⁷⁾

(6) Tutti gli stati, tutti i dominii che hanno avuto, ed hanno imperio sopra gli uomini, sono state e sono o repubbliche o principati.—Machiavelli, *Principe*, c. i.

* Republic: Commonwealth, state in which the power is lodged in more than one.—Johnson's *Dictionary*.

Compare Cic. *de Rep.* iii. 31.

(7) Some writers, however, both ancient and modern, have called the two Spartan kings *monarchical*. See *Philological Museum*, vol. ii. p. 49, note g.

The diminution of the royal authority, while the ensigns and outward marks of its dignity are retained, is analogous to the change effected by Augustus, when he introduced a real monarchical power in the state, and left the old republican magistracies with the same titles and honours, though with only the semblance of authority, the reality being taken away.⁽⁸⁾ The change operated by Augustus is, therefore, the exact converse of the change which takes place when an absolute passes into a limited monarchy; the means by which the change is effected being, however, the same. By the one, a republic is transmuted into a monarchy, preserving the republican forms; by the other, a monarchy is transmuted into a republic, preserving the monarchical forms. In both, the titles of office represent no certain power; and the functions of the office-holders fluctuate according to circumstances. As we shall show presently, the title of an office does not express any constant aggregate of powers. According to Gibbon, the imperial government of Rome may be defined to be an absolute monarchy, disguised by the forms of a commonwealth.⁽⁹⁾ On the other hand, the modern government of England may be defined to be a commonwealth, disguised by the forms of an absolute monarchy.

(8) Speaking of the tribunicia potestas in the time of Tiberius, Tacitus remarks: 'Id summi fastigii vocabulum Augustus reperit, ne regis aut dictatoris nomen adsumeret, ac tamen appellatione aliqua cetera imperia præmineret.'—*Ann.* iii. 56, cf. i. 1-3.

Hence Lucan, speaking of the time of Augustus, says:

'Namque omnes voces, per quas jam tempore tanto
Mentimur dominis, hæc primum repperit ætas.'

v. 385-6.

In like manner, the taking of auguries on the appointment of magistrates became at last a mere form at Rome.—*Dion. Hal.* ii. 6.

(9) *Decline and Fall*, c. 3, vol. i. p. 89: 'The names and forms of the ancient administration (says Gibbon) were preserved by Augustus with the most anxious care. The usual number of consuls, prætors, and tribunes were annually invested with their respective ensigns of office, and continued to discharge some of their least important functions. . . . Cæsar had provoked his fate, as much by the ostentation of his power, as by his power itself. The consul or tribune might have reigned in peace. The title of king had armed the Romans against his life. Augustus was sensible that mankind is governed by names; nor was he deceived in his expectation, that the senate and people would submit to slavery, provided they were respectfully assured that they still enjoyed their ancient freedom.'—p. 87, 94. By degrees, as the imperial power became more firmly established,

§ 4 Now the popular usage of the terms *monarchy* and *republic* affords a striking illustration of an aphorism which Dr. Whewell justly considers as 'the fundamental principle and supreme rule of all scientific terminology.' 'Terms (he says) must be constructed and appropriated so as to be fitted to enunciate simply and clearly true general propositions.'⁽¹⁰⁾ Again, he says: 'Amid the countless combinations of properties and divisions of classes which the structure of language implies, scarcely any are arbitrary or capricious. A word which expressed a mere wanton collection of unconnected attributes could hardly be called a word; for of such a collection of properties no truth could be asserted, and the word would disappear for want of some occasion on which it could be used. Though much of the fabric of language appears, not unnaturally, fantastical and purely conventional, it is in fact otherwise. The associations and distinctions of phraseology are not more fanciful than is requisite to make them correspond to the apparent caprices of nature or thought; and though much in language may be called conventional, the conventions exist for the sake of expressing some truth or opinion, and not for their own sake. The principle, that the condition of the use of terms is the possibility of general, intelligible, consistent assertions, is true in the most complete and extensive sense.'⁽¹¹⁾

And he further cites, in support of this canon of terminology, a remark made by Cuvier upon Gmelin, that by placing the lamantin in the genus of morses, and the siren in the genus of

the constitutional fictions devised by Augustus, and scrupulously observed by the early emperors, were laid aside. 'The fine theory of a republic (says Gibbon, speaking of the end of the second century) insensibly vanished, and made way for the more natural and substantial feelings of monarchy.' (*Ib.* c. 5, p. 163). And see further, the account of the change under Diocletian, *ib.* c. 13, p. 491-5.

Appian (*Pref. ad Hist.* c. 6) says that the heads of the Roman state call themselves imperators (*αὐτοκράτορες*), not kings; though they are in fact kings: in which passage he means by king, an absolute or despotic king.

(10) Aph. 8, concerning the language of science, p. lxxiii.

(11) *Phil. of the Ind. Sciences*, vol. i. p. 455.

eels, he had rendered every general proposition respecting the organization of those genera impossible.⁽¹²⁾

The remark of Cuvier upon Gmelin's classification of the lamar-tin and the siren may be applied to the popular use of the terms *monarchy* and *republic*. By including in monarchies, and excluding from republics, every government of which a king is the head, whether his powers be despotic or not, we make every true general proposition respecting monarchies and republics impossible.⁽¹³⁾ It will be shown in another part of this work,⁽¹⁴⁾ that there is an essential distinction between governments in which one is sovereign, and governments in which the sovereignty is shared between several; and that true general propositions may, to a certain extent, be constructed for each class of governments. The conditions for the exercise of the supreme governing power, in each set of governments, are fundamentally different. But if the distinction between two classes of governments is made to depend on the mere *title* of an office, the *powers* of which are variable, nothing general can be truly predicated of either class, because the dis-

(12) 'Ces noms qu'il est prescrit à l'homme d'imposer ne sont pas des signes incohérents, appliqués au hasard à quelques objets isolés. Pour qu'ils deviennent réguliers et significatifs, ils exigent, comme il est dit, que les êtres aient passé devant le nomenclateur; c'est-à-dire, qu'il les ait comparés; qu'il en ait saisi les rapports de ressemblance et de différence; qu'il les ait classés; ce qu'il ne peut faire s'il ne les a vus ensemble, et s'il ne les a étudiés à fond. Pour bien nommer, enfin, en prenant ce mot dans toute sa force, non seulement il faudroit bien connoître; on pourroit dire qu'il faudroit tout connoître. La superstition des cabalistes croyoit au pouvoir magique des noms; c'étoit une fausse conséquence d'un principe très vrai; c'est que s'ils étoient parfaits, ils représenteroient l'ensemble des choses et leur essence. Tel est l'objet de cette partie de la science que des esprits légers vouloient condamner au mépris sous le nom de nomenclature. Il suffiroit pour leur répondre de cette condition fondamentale que nous venons d'énoncer: pour bien nommer, il faut bien connoître.'—Cuvier *Histoire des Sciences Naturelles*, tom. ii. p. 349.

(13) Zachariä feels the difficulty created by the ordinary phraseology so strongly, that he proposes to call a limited or constitutional monarchy by the name of 'republican monarchy' (*Vom Staate*, vol. iii. p. 171): an expression which renders both terms unmeaning.

Montesquieu is not very clear as to the class to which he would refer the government of England. Sometimes he calls it a monarchy (xi. 7); at other times a popular state (ii. 4); and in one place he calls it 'a republic concealed under the form of a monarchy' (v. 19). According to Vico (*Principj di Scienza Nuova*, vol. ii. p. 354), England is a monarchy governed aristocratically.

(14) Below, ch. xv. § 6.

tion depends on accidental varieties. If we agree to use the term *monarch* in the sense of *absolute monarch*, we describe the character of a government by calling it a monarchy. But the powers of the kings of the heroic age in Greece,⁽¹⁵⁾ of the Spartan kings, of the Roman kings, of the Persian kings, of the Macedonian kings, of the Syrian and Egyptian kings,⁽¹⁶⁾ of the Teutonic kings,⁽¹⁷⁾ of the kings of Spain, France, Denmark,

(15) Vico, *Principj di Scienza Nuova*, tom. ii. p. 93, points out the error of supposing that the king of the heroic age was a monarch.

(16) As to the motives of the successors of Alexander for assuming the royal title, see Plutarch, *Demetr.* 18.

(17) The characteristics of the Teutonic royalty, as distinguished from the powers of the Roman emperor, are laid down by Guizot, *Hist. de la Civil. en Europe*, leçon 9.

In the supplemental notes to his work on the *Middle Ages* (n. 63, p. 101), Mr. Hallam cites the following passage from Sir F. Palgrave's work, *On the Rise and Progress of the English Commonwealth*, vol. i. p. 553:—'Predominant or pre-eminent chieftains, whom the Romans called *reges*, and who were often confirmed in their dominions by the Romans themselves, existed at an earlier period amongst several of the German tribes; but it must not be supposed that these leaders possessed any of the exalted functions and complex attributes which, according to our ideas, constitute royal dignity. A king must be invested with permanent and paramount authority; for the material points at issue are not affected by showing that one powerful chieftain might receive the complimentary title of *rex* from a foreign power, or that another chieftain, with powers approaching to royalty, may not have been created occasionally, and during greater emergencies. The real question is, whether the king had become the lord of the soil, or, at least, the greatest landed proprietor and the first estate of the commonwealth, endued with prerogatives which no other member of the community could claim or exercise. The disposal of the military force, the supreme administration of justice, the right of receiving taxes and tributes, and the character of supreme legislator and perpetual president of the councils of the realm, must all belong to the sovereign, if he is to be king in deed as well as in name.'

Upon this passage Mr. Hallam comments as follows:—'The prerogatives here assigned to royalty as *part of its definition* are of so various a nature, and so indefinitely expressed, that it is difficult to argue about them. Certainly 'a king in deed' must receive taxes, and dispose—though not necessarily without consent—of the military force. He must preside in the councils of the realm; but he need not be supreme legislator, if that is meant to exclude the participation of his subjects—much less need he be the lord of the soil.'

In truth, it is not only difficult, but impossible, to argue about the definition of the powers of a king. The idea is essentially historical, not metaphysical. On the power of the English kings, see n. 196, p. 375.

Mr. Sharon Turner (*Hist. of the Anglo-Saxons*, b. viii. c. 3) distinguishes five species of kings, viz., the father, the elder, the imperator, the despot lord, and the Teutonic king; but his classification is open to the objection, that it is unintelligible as a metaphysical division, while, considered as a historical division, it is inaccurate, because it includes many

England, Prussia, &c., in modern Europe, and the kings of the negro tribes, not only differ widely from one another, but have varied in the same line. The variation is increased by adding such hereditary titles as those of emperors, reigning dukes, margraves, counts, bishops, &c. Moreover, there was a king-archon at Athens, and a king of the sacrifices at Rome; mere antiquarian relics of the ancient kingly government.⁽¹⁸⁾ Usage may even vary with respect to the title of the same officer; thus, the head of the Roman world, while he was merely called princeps, and sometimes imperator, by the Latins, received the appellation of *basileus*, or king, from the Greeks.⁽¹⁹⁾ If, therefore, a class is formed of such heterogeneous individuals as states in which the government includes an officer bearing the title of king, no general predication, beyond this one point of agreement, can be formed respecting it.⁽²⁰⁾

rulers (as sachems, sheiks, deys, &c., cited by Mr. Turner himself) who did not bear the title of king.

(18) According to Aristot. (*Pol.* vi. 8), the officers who performed the national sacrifices not assigned to the priests, were in some states called archons; in some, kings; in others, prytanes. In iii. 14, he says, 'that partly from the voluntary abandonment of their powers, and partly by the encroachments of the people, the kings, in most Greek states, only retained the right of offering sacrifices. Where they had any substantial power, it was that of military command in foreign parts.' With regard to the king-archon at Athens, see Plat. *Politicus*, c. 30.

(19) 'Wherever the Latin tongue was in use, (and it was the language of government throughout the empire,) the imperial title, as it was peculiar to themselves, conveyed a more respectable idea than the name of king, which they must have shared with a hundred barbarian chieftains; or which, at the best, they could derive only from Romulus or from Tarquin. But the sentiments of the east were very different from those of the west. From the earliest period of history, the sovereigns of Asia had been celebrated in the Greek language by the title of *basileus*, or king; and since it was considered the first distinction among men, it was soon employed by the servile provincials of the east in their humble addresses to the Roman throne.—Gibbon, *Decline and Fall*, c. 13. In 1 Pet. ii. 17, the words τὸν Θεὸν φοβέσθαι, τὸν βασιλέα τιμᾶν ought to be rendered, 'fear God, honour the emperor;' compare v. 13, 14, where the Roman emperor and the provincial governors are meant. Hannibalianus was the only Roman prince who received the title of *rex*.—Gibbon, c. 18.

(20) 'To think all kings alike, is the same folly as if a consul of Aleppo or Smyrna should claim to himself the same power that a consul at Rome. . . . Kings are all individual, this or that king; there is no species of kings.'—Selden's *Table Talk*, art. 'King;' and see his *Titles of Honour*, part i. c. 2, 3. Alg. Sidney (*Discourses concerning Government*, c. 3, § 31) points out that the powers of kings vary according to the constitutions of

The Greek word *τύραννος* is properly a generic term ; it is the appellative of a despot of a certain class ; of a despot who subverts by force an established government, and his immediate successors. The theoretical Greek writers attempted to convert the name *βασιλεύς* into a similar appellative, and to lay down certain characteristics of kingly government : as, that a king rules according to the laws of the country ; that he looks to the general good of the people ; that his subjects obey him willingly ; that his body-guard is of native citizens ; that the aim of his rule is virtue.⁽²¹⁾ This attempt, however, is unsuccessful. *Βασιλεύς*, or *king*, is the name of an office, and no characteristics of a class

the several states, and he remarks, 1, That the most absolute princes that are or have been in the world, never had the name of king ; whereas it has been frequently given to those whose powers had been very much restrained. 2, That the names of magistrates are often changed, though the power continue to be the same ; and the powers are sometimes altered, though the name remain. 3, That the same names, which in some places denote the supreme magistracy, in others are subordinate or merely titular. See Conring. *Dissert. xxii. de Regno et Tyrannide, Opera*, vol. iii. p. 862 ; *Diss. xxiii. de Regno*, ib. p. 873 ; *Diss. xxiv. de Differentiis Regnorum*, ib. p. 884 : he observes that some kings are not sovereigns, and that some sovereigns do not bear the title of king.

' La Snède fut toujours libre jusqu'au milieu du quatorzième siècle. Dans ce long espace de temps, le gouvernement changea plus d'une fois ; mais toutes les innovations furent en faveur de la liberté. Leur premier magistrat eut le nom de roi, titre qui, en différens pays, se donne à des puissances bien différentes ; car en France, en Espagne, il signifie un homme absolu, et en Pologne, en Snède, en Angleterre, l'homme de la république.'—Voltaire, *Histoire de Charles XII.* liv. i.

' Titles of office (says Mr. Bentham) are aggregates of dissimilar parts, which cannot be compared until we know the nature of their constituent elements. If these elements were determined, they would form the basis of a universal political language. But, as it is, how can the powers of the officers of a government be described, except with reference to the actual institutions of some given state ? What resemblance is there between the first consul of France and the consuls of Rome, or the consuls of trade ? between the king of England, the king of Sweden, and the king of Prussia ? between the emperor of Germany and the emperor of Russia ? between the ancient *duc et pair* of France, the English duke, the grand-duke of Russia, the grand-duke of Tuscany ? between the mayor of Bourdeaux and the mayor of London ? A volume would not suffice to state all these discrepancies.'—*Traité de Législation*, tom. i. p. 309.

(21) See Xen. *Mem.* iv. 7, § 12 ; Plat. *Rep.* ix. 4, p. 576 ; *Politicus*, c. 18, 39 ; Arist. *Pol.* iii. 7, 14 ; iv. 2, 10 ; v. 10, 11, 12 ; *Eth. Nic.* viii. 12 ; *Rhet.* i. 8, § 4 ; Polyb. vi. 7 ; Dion. Hal. *Ant. Rom.* ii. 56 ; Plutarch, Dion. c. 10 ; Cic. *de Rep.* ii. 26. Compare Ranke, *Zur Kritik Neuerer Geschichtschreiber*, p. 196. M. Guizot, in like manner, attempts a general metaphysical definition of royalty, which he characterizes as ' la personification de la souveraineté de droit.'—*Hist. de la Civilisation en Europe*,

of kings, such as Aristotle and others propound, can be laid down. The Romans, indeed, connected an odious idea with the name of *rex*, and scarcely distinguished it from the Greek *tyrannus*.⁽²²⁾

Titles of offices, as we shall show presently, often approximate more to proper names than to appellatives of classes. They contract certain peculiarities of a nation; they acquire a history of their own; and they do not admit of being safely generalised beyond a single country. Even in that case, it is necessary to investigate the history of the office, before anything universal can be affirmed or denied of it. For example, *colonel* is the title of the commanding officer of a regiment in all the countries which use the Romance and English languages. But

leçon 9. He proceeds, however, to point out the historical characteristics of the office in the several states, and at the times, of which he is treating, and thus furnishes the true definitions of the word.

(22) Hoffmeister (*Die Weltanschauung des Tacitus*, Essen, 1831, p. 47) remarks, that 'the name *king* (*rex*) was, in the mind of a Roman, connected with an odious idea; and, in accordance with the Roman acceptation, we must translate *rex* by *tyrant*, or *despot*.' By a king, the Romans generally understood an absolute or despotic king, unless the context suggested a different meaning. Thus Cato, the censor, said that a king is by nature a carnivorous animal—a dictum which refers to the sanguinary acts of despotic kings.—Plutarch. *Marc. Cat.* c. 8; compare the expression in Dion. Hal. vi. 20. So a passage (probably of late manufacture), attributed to a Pythagorean philosopher named Diotogenes, speaks of the king as holding irresponsible power: *ὁ δὲ βασιλεὺς ἀρχὴν ἔχων ἀνπεύθετον, καὶ αὐτὸς ὡν νόμος ἑμψυχος, θεὸς ἐν ἀνθρώποις παρεσχαμίσσεται*, Stob. *Flor.* xlviii. 61; accordingly, the Romans sometimes used *regnare* in the sense of exercising monarchical or despotic power: thus, in Sueton. *Tib.* c. 14, the phrase '*regnaturus, sed sine regio insigni*,'—'to be a monarch without the trappings of royalty.' Cicero likewise says, that if in a state which expels its kings, a new magistrate, having powers superior to all others, is substituted, the name only, and not the substance, of royalty is changed—'*nomen tantum videbitur regis repudiatum, res manebit*,' (*Leg.* iii. 7.) an expression which clearly assumes that despotism is of the essence of kingly power. Cicero remarks that the Romans did not distinguish between *βασιλεὺς* and *ῥήτωρ*, but used the word *rex* for both.—*De Rep.* ii. 27. The modern phrase of '*règner sans gouverner*,' keeps closer to the proper idea of the kingly office; viz., that it is pre-eminence, with an uncertain accompaniment of power. Feueilon (in *Télémaque*, liv. xvii.) lays it down that a king ought not to enter into the details of government, and attempt to do everything himself: he ought to govern those who govern.

The application of the royal title to animals—the lion the king of beasts, the royal tiger, the king or queen bee—merely denotes pre-eminence or dignity. Animals, as we have seen, do not govern. Compare Fielding's account of the king of the gypsies in *Tom Jones*, b. xii. c. 12.

the position, powers, emoluments, mode of appointment and promotion, and other circumstances of the office, are not so uniform in different countries as to enable us to lay down any general proposition concerning it, and even if we confine ourselves to a single country (as England), we should find that the office of colonel in the time of Charles II. differs in many important respects from the same office at present. In like manner, the office of chancellor not only was different in different states of Europe—the chancellors of the German empire differed from the French chancellor, and the latter from the English; but the office changed its character essentially in the same country.⁽²³⁾

§ 5 Vagueness and inaccuracy in the use of political forms often arise from a fear of inelegance in style; from a desire of varying the expression, and of avoiding repetitions of the same word. Hence historians and other writers, in describing the acts of a government, often use such expressions as *monarch*, *king*, *sovereign*,⁽²⁴⁾ *prince*, interchangeably, as if they exactly corresponded with one another, and were convertible terms. A further

(23) See Lord Campbell's introduction to his *History of the Chancellors*, where the principal changes in the character of this high office between the Anglo-Saxon period and our own time are indicated.

(24) In the discussions on the *Petition of Right*, the lords proposed to add a clause reserving 'the sovereign power' of the king. This was objected to in the Commons by Pym, Sir Edward Coke, Sir T. Wentworth, Noy, Selden, and others. Sir Edward Coke, in particular, said, 'I know that prerogative is part of the law; but 'sovereign power' is no parliamentary word. In my opinion, it weakens Magna Charta, and all the statutes; for they are absolute, without any saving of 'sovereign power;' and should we now add it, we shall weaken the foundation of law, and then the building must needs fall. . . . If we grant this, by implication we give a 'sovereign power' above all laws.' In consequence of the objections made by the Commons, the proposed clause was withdrawn. (2 *Parl. Hist.* p. 355, 371.) Nevertheless, the king of England is commonly called 'the sovereign;' and even in legal phraseology is denominated 'our sovereign lord;' not in the sense of the clause condemned by the House of Commons in 1628, but as signifying supreme rank and dignity in the state.

'*Urben Romam a principio reges habuere*,' the first sentence of the *Annals* of Tacitus, is thus rendered by Murphy:—'The first form of government that prevailed at Rome was *monarchy*.'

Montesquieu thinks that the ancients had not a clear idea of monarchy (*Esprit des Loix*, xi. 8), and he perceives manifest marks of embarrassment in Aristotle's mode of treating the subject. 'Aristotle (he says) makes five species of monarchy, but distinguishes them by accidental circumstances. He classes the empire of the Persians and the kingdom of

variety is likewise sought in metaphors, as *crown, sceptre, throne*.⁽²⁵⁾ Such rhetorical artifices, to avoid the monotony of recurrent phrases, are often quite legitimate; but where precision is required, no safer rule can be followed than always to call the same thing by the same name. In the exact sciences, such variations of phraseology are never thought of. A mathematician, in treating of triangles or circles, is contented to repeat each of these words as often as he has occasion to express the idea: nor does a naturalist, in describing an animal or vegetable species, ever think of giving it more than one name. That precision which consists in constantly applying the same name to the same thing not only sins against elegance of style, but in the moral sciences is sometimes considered as a mark of pedantry and littleness of mind; in the same manner that an attention to small sums is a sign of meanness in pecuniary dealings.⁽²⁶⁾ Such a view, however, is founded on erroneous analogies. The word is a small thing in itself; but the parallogism which can be effected by a dexterous, or an unconscious, transition, from one of its meanings to another, may be important. If a person was constantly occupied in effecting exchanges of money, and he did not ascertain that each denomination of coin constantly represented the same quantity of precious metal, he would either defraud others or suffer loss himself. The main excellence of a technical term is to have a fixed and unvarying signification, in different contexts meaning the same thing. In this way, the scientific writer familiarizes his reader with a strange word, or with a new acceptation of an old word. The poet, on the other hand, seeks to diversify common words, by putting them in new positions and new combinations.

Dixeris egregie, notum si callida verbum

Reddiderit junctura novum. ⁽²⁷⁾

Whereas the scientific writer shows his mastery over the diffi-

Lacedæmon among the monarchies; not seeing that one was a despotism and the other a republic' (*ib.* 9). In truth, however, in the passage referred to (*Pol.* iii. 14), Aristotle is treating of kingly government (*βασιλεια*), not of monarchy; and the five species of kings which he distinguishes are quite correct.

(25) On crowns and sceptres, as ensigns of royal dignity, see Selden's *Titles of Honour*, part i. ch. viii. § 2, 3.

(26) See Aristot. *Met.* i. *Min.* c. iii.

(27) *De Art. Poet.* 47.

culties of language, by so treating a 'novum verbum' as to render it 'notum.'

*The scientific use of a term (Dr. Whewell remarks). is in all cases much more precise than the common use. The loose notions of *velocity* and *force*, for instance, which are sufficient for the usual purposes of language, require to be fixed by exact measures when these are made terms in the science of mechanics. This scientific fixation of the meaning of words is to be looked upon as a matter of convention, although it is in reality often an inevitable result of the progress of science. . . . Hence, it is no valid objection to a scientific term, that the word in common language does not mean exactly the same as in its scientific use.'⁽²⁸⁾ As observation is rendered more accurate and more extensive, and as a science advances, new relations of classes are perceived, and a demand arises for a sharper and more salient outline of ideas than existed before. The popular use of words is always loose and unfixed; when they are adopted into the language of science, some deviation from the common usage is inevitable; or rather it is necessary to collect the scattered rays of popular speech into one focus, and to give it a definite circumscription. But if, as in the case just mentioned, we confine the term *monarchy* strictly to all governments in which one is sovereign, and if we extend the term *republic* to all governments in which a body is sovereign, we do not depart widely from the customary acceptation, and still less from the original and etymological meaning of these terms; we merely fix it with precision, according to the limits of the class which best fits it for scientific investigation. In fact, we merely follow out the classification recognised by popular usage itself, in the opposition between *despotisms* and *free governments*.⁽²⁹⁾

(28) *Ib.* p. lxix. Speaking of technical terms, Dr. Whewell elsewhere says: 'It is in a great measure by inventing such terms that men not only best express the discoveries they have made, but also enable their followers to become so familiar with these discoveries, and to possess them so thoroughly, that they can readily use them in advancing to ulterior generalizations.'—*Phil. of Ind. Sciences*, vol. i. p. 50.

(29) Tacitus speaks of absolute monarchy and liberty as two things

It is by the process just described that the technical vocabulary of political economy has been formed. The words with the nearest significations to those which it was required to express, were selected from the current language of men of business, in the different dealings of life, and were defined in the senses which suited the scientific discussions into which they were to enter. Hence, such words as *money, credit, currency, capital, rent, profit, wages, labour, production, &c.*, received technical meanings, resembling, but not identical with, their popular acceptation; and were thus adapted for precise argument.⁽³⁰⁾ The merits of the English writers in this important service have been candidly recognised by the Continental economists; and the technical language which they have established has facilitated and directed economical reasoning throughout the civilized world.⁽³¹⁾

The rule that no two technical terms ought to be synonymous, is pretty constantly observed in the mathematical and physical sciences. A mathematician has only one name for a triangle, a sphere, a circle, or a parabola; a writer on mechanics has only one name for a lever, an inclined plane, or a pendulum; an astronomer has only one name for latitude and longitude, for

naturally incapable of co-existence: 'Quamquam, primo statim beatissimi sæculi ortu, Nerva Cæsar res olim dissociabiles miscuerit, principatum ac libertatem.'—*Agric.* 3.

'Essa (la libertà) può esistere con due consoli in Roma, con dieci areonti in Atene, con due re in Sparta, coll' aristocrazia in Venezia, colla democrazia a Firenze, con uno statolder in Olanda, con un re in Inghilterra, con un presidente temporario in America.'—Pecchio, *Storia dell' Economia Pubblica in Italia*, p. 15. None of the governments here referred to are absolute monarchies.

Montesquieu (*Esprit des Lois*, xi. 2) says, that liberty is generally assigned to republics, but excluded from monarchies. Limited or constitutional monarchies, however, are usually considered free governments.

(30) See Senior's *Definitions of Terms in Political Economy*, appended to Whately's *Logic*; Malthus, *Definitions in Political Economy*, 1827; also Ganilh, *Dictionnaire d' Economie Politique*, Paris, 1826, 1 vol. 8vo.

(31) 'Ce sont les Anglais qui ont le mieux défini les mots, *production, capital, concurrence, credit*, et une foule d'autres non moins importants. Ils ont créé une nomenclature, qui a fini par être adoptée par tous les économistes de l'Europe, et qui servira de point de départ à leurs travaux futurs.'—Blanqui, *Histoire de l' Economie Politique*, tom. ii. p. 311.

declination and right ascension ; the geometer in investigating the properties of the conic sections, and the astronomer in describing the orbits of the planets, does not speak sometimes of an ellipse, and sometimes of an oval, in order to avoid an inelegant repetition of the same word. In politics, however, owing to the fluctuating character of its vocabulary, and to the variety of the languages which have contributed to its formation, there are many terms which are used as nearly synonymous with one another. Thus, as we have already remarked, a king is called indifferently a *monarch* or a *sovereign*, and his power is designated by such emblematic words as *crown*, *sceptre*, and *throne*. Again, if *monarchy* is restricted to its proper sense of *absolute monarchy*, it becomes synonymous with *despotism* ; and if *republic* is used to include all states in which the supreme power is shared by several, it becomes synonymous with *free government*.

Words which are adopted into the scientific vocabulary from common use in one language, may be introduced into another as original technical terms. Such words as *aristocracy*, *oligarchy*, *democracy*, *despotism*, *administration*, *convention*, *stipulation*, *ambassador*, *diplomatic service*, belong to this class ;⁽³²⁾ and they have currency throughout the entire civilized world. When, however, different languages do not borrow their technical terms from one another, or from a common source, but each form their own technical terms by appropriation from popular use, then questions arise as to the equivalence of the corresponding terms in different languages. Thus, the words νόμος,—*jus*, *lex*,—*diritto*, *legge*,—*droit*, *loi* ; *recht*, *gesetz*, and *law*, correspond, with a general agreement, but with certain shades of difference. The three terms, κήρυξ, *legatus*, and *ambassador*, in its several modern forms, likewise correspond in a similar manner. Such sets of terms as βασιλεὺς, *rex*, *re*, *roi*, *könig*, *king* ; βασίλισ, *regina*,

(32) Gibbon remarks, with reference to technical terms in medicine, that 'many words that are now scientific were common and popular in the Greek idiom.'—*Decl. and Fall*, c. 43, note.

reine, königin, queen ; *comes*, with its derivatives, *conte, conde*, and *comte, graf* and *earl*, may be considered as equipollent, and are treated as such in translating from one language to another. The names of the degrees of naval and military rank, as *marshal, general, colonel, major, captain, lieutenant* ; *admiral* and *captain, &c.*, are accepted as equivalents in nearly all modern languages ; but the German replaces *colonel* and *captain* with *obrist* and *hauptmann*. Nevertheless, such names of offices, though acknowledged as equivalents for the convenience of description, do not designate any constant idea.

Sometimes ancient terms adopted into the modern political vocabulary have been deflected from their classical signification. Thus, the term *jus gentium*, which was used by the Romans to signify principles of jurisprudence common to the law of many nations, has been in modern times used to signify the rules which regulate the intercourse of different nations ; a confusion of meanings which has not been without its influence upon the treatises of Grotius and Puffendorf, and their followers. In like manner the Greek word *τύραννος*, Latinized into *tyrannus*, designated an absolute prince, who had acquired his power by usurpation and violence.⁽³³⁾ Cromwell and Napoleon afford examples of the class of rulers whom the Greeks designated by this name ; and the Roman emperors were properly a series of *τύραννοι*, concealed, at first, under a constitutional disguise. The king of Persia was not called by the Greeks a *τύραννος*, because, though his power was despotic, he ruled according to the laws and customs of the country. The Greeks never applied the term to any aristocratic or democratic government

(33) Speaking of Miltiades, Nepos says (c. 8) : ' Nam Chersonesi omnes illos quos habitarat annos, perpetuam obtinuerat dominationem, tyrannusque fuerat appellatus, sed justus. Non erat enim vi consequutus, sed suorum voluntate, eamque potestatem bonitate retinuit. Omnes autem et habentur et dicuntur tyranni, qui potestate sunt perpetuâ in eâ civitate que libertate usa est.'

' If any one rules through deceit or violence, this is thought a *τυραννίς*,' says Aristot. *Pol.* v. 10. ' It is sufficiently known, that the odious appellation of *tyrant* was often employed by the ancients to express the illegal seizure of supreme power, without any reference to the abuse of it.—Gibbon, *Decline and Fall*, c. 10 (vol. i. p. 357).

except metaphorically ; as when they compared the Athenian empire over the subject-states to a *τυραννίς*. In modern languages, however, *tyranny* signifies any harsh and oppressive exercise of political power ; and the government of a body may as properly be called *tyrannical* as the government of one.

§ 6 When a word, taken from common use, has been engrafted into the technical vocabulary of politics, and has thus received a tolerably precise meaning, there are numerous influences at work to untechnicalize it ; to blur the distinct outline which philosophy has drawn ; to obliterate the landmarks which a long litigation between learned disputants has settled ; and to counteract the dispensations of the scientific god Terminus. One of these is the circumstance above adverted to, that a technical word formed in this manner does not cease to be a common word, and as it necessarily occurs much oftener in popular than in scientific discussion, there is a constantly-renewed tendency to a relapse. Like an animal imperfectly domesticated, a technical term of this sort in politics is perpetually in danger of losing its refinement, and of reverting to a state of wildness. This is owing to the weakness of the scientific authority, and to the consequent force of the popular voice in political questions. Until there is more agreement than exists at present among scientific writers on politics, the standard of authority is subject to dispute, and is imperfectly recognised : hence there is, in a certain class of political terms, a constant gravitation from their technical orbit to the popular medium whence they had their origin. Such is not the case with technical terms in the physical sciences, which originate in the same manner. In these, (owing to the general agreement of men of science,) the scientific authority is paramount ; there is no tendency in technicalized common terms to degenerate into their primitive meaning ; but there is a perpetual reference to the new and precise canon of interpretation. Thus, the words *heart, spine, brain, lungs, veins, nerves, bone, lion, cat, dog, wolf, &c.*, as used by the comparative anatomist, are interpreted by his standard, which is perpetually passing into general use, and supplanting the popular standard. For instance,

the technical use of the word *nerve* has now become popular, and has expelled the old acceptation, which made it synonymous with *muscle* or *sineu*.⁽³⁴⁾

§ 7 Another circumstance which often draws a technical term of politics from its strict sense, is its close connexion with some of the strongest feelings of aversion or affection which animate the human breast. Sir James Mackintosh speaks of the ethical philosopher as impeded by this obstacle to sound reasoning. 'In those most difficult inquiries, for which the utmost coolness is not more than sufficient, he is often forced to use terms commonly connected with warm feeling, with high praise, with severe reproach; which excite the passions of his readers, when he most needs their calm attention, and the undisturbed exercise of their impartial judgment. There is scarcely a neutral term left in ethics; so quickly are such expressions enlisted on the side of praise or blame, by the address of contending passions.'⁽³⁵⁾ Many of the terms used in politics, for instance, such terms as *monarchy*, *republic*, *democracy*, *church*, are in like manner connected with party feeling, patriotism, and religious sentiment, and serve as torches to kindle a whole train of emotions ready laid in every bosom. This description, however, only applies to a *few* political terms, though these may be important; and there is this difference between politics and ethics, that whereas the ethical feelings vary little from nation to nation, the technical terms of politics excite different emotions in different countries, and in some countries a term may be heard with indifference, which in others is a watchword of parties, and a provocative of angry controversy.

§ 8 The distinction which Dr. Whewell makes between *terminology* and *nomenclature*, that is, between a set of descriptive phrases, and a system of names for classes, applies principally to the physical sciences; and among the physical sciences, to

(34) We still retain a vestige of this meaning in the word *nervous*, as applied to *style*. A *nervous woman* means a woman whose nerves are easily excited; but a *nervous style* means a powerful and vigorous style.

(35) *Id.* p. 6.

those which concern natural history and chemistry.⁽³⁶⁾ The business of nomenclature in physics, is to invent names for a series of natural objects or classes; as in human anatomy and physiology, in the animal and vegetable kingdoms, in mineralogy, and in chemical science. All the physical sciences require a nomenclature to a greater or less extent. In politics, however, there are no natural objects, like the bones, arteries, veins, and muscles of the human body, and no natural classes, like botanical species, to be named: the ideas and relations to be named are artificial; that is to say, they are the result of human arrangement, conditioned by natural laws. Political terms, therefore, rather resemble a technological than a scientific vocabulary: they resemble the names of the parts of a watch, of a steam-engine, of a ship, of a house, or of a fortress, rather than the names of the human bones, or of species in natural history.

For practical politics, however, an artificial vocabulary is requisite, which is framed less systematically indeed, but not less arbitrarily, than the nomenclature of a science. The legal terms of each country form a technical system, which has been built up by successive generations of lawyers; most of its words have no popular currency, and, when they have, the technical meaning, established by professional usage, is recognised by the public as the canon of interpretation, not less than the meaning of a technical term, as fixed by men of science, is recognised in the physical sciences. Such terms as *guardian* and *ward*, *debtor* and *creditor*, *principal* and *agent*, *vendor* and *vendee*, *lessor* and *lessee*, *obligor* and *obligee*, *bailor* and *bailee*, *feoffor* and *feoffee*, *trustee* and *cestuique trust*, the *drawer*, *indorser* and *acceptor* of a bill of exchange, the *maker* and *payee* of a promissory note, a *bankrupt*, an *insolvent*, the *executor* of a will, the *administrator* of the effects of a deceased person, *plaintiff* and *defendant*, and many others in the English law, are instances of

(36) See Aph. 2, concerning the language of science. In Aph. 88, concerning ideas, he says: 'Terminology must be conventional, precise, constant; copious in words, and minute in distinctions, according to the needs of the science.'

technical terms invented by lawyers, and bearing an analogy to the nomenclature of a science. Terms descriptive of degrees of consanguinity and affinity, and of different sorts of estates, as *estate in fee, estate-tail, estate for lives, &c.*; also terms of pleading, descriptive of forms of action, and the various steps and proceedings in a suit, or in an indictment; names of writs, as *writ of habeas corpus, mandamus, fieri facias, &c.*, with other legal terms, belong to the same class. Each system of law possesses its own set of legal terms, but these terms are not necessarily peculiar to any one nation, inasmuch as several nations may, to a certain extent, use the same system of jurisprudence. Thus most of the continental nations, together with Scotland, agree in using a legal nomenclature founded on that of the Roman law; while most of the United States, together with the English dependencies colonized from England, use the terms of the English common law. For example, the fundamental distinction of property, which the systems derived from the Roman law designate by *immoveable* and *moveable*, the English common law calls *real* and *personal*; ⁽³⁷⁾ and this difference of phraseology pervades all the countries in question. In deciding upon questions which involve a foreign domicile, and transactions in a foreign country, the courts of justice of one nation recognise the legal phraseology of another. ⁽³⁸⁾

Parliamentary language likewise has its technical terms, which acquire a fixed meaning in the same manner as legal terms, and are used with a precision recognised by a constant usage. Such, in the language of the English parliament, are the words *bill, act, motion, resolution, readings of a bill, clauses, preamble, and title of a bill, committee, amendment, address to the Crown, conference, message, petition, vote, division, tellers, proxy*; ⁽³⁹⁾ many of which terms are similarly used in the countries whose institutions are derived from England. The

(37) The corresponding terms in the Athenian law were *ὁραία φανερά* καὶ ἀφανής, 'visible and invisible property.'—Harpocrat. in v.

(38) See Story's *Conflict of Laws*.

(39) See May's *Law of Parliament*.

Roman senate had likewise many similar terms to denote its legislative procedure, which are enumerated in treatises on Roman antiquities.⁽⁴⁰⁾

International law, as it concerns no one country in particular, employs a phraseology nearly common to all nations; and where the several languages use native technical terms, their equivalence to the corresponding terms in other languages is settled. Thus, the words designating *treaty, convention, armistice, war, peace, siege, blockade, suspension of hostilities, truce, safe conduct, passport, spy, credential letters, ambassador, minister plenipotentiary, consul, factory, harbour, high seas, flag, pirate, privateer*, run through all civilized languages, and their mutual interpretation is probably recognised in all diplomatic intercourse. This, again, is a sort of technical nomenclature; and the standard of interpretation, in case of dispute, is borrowed from authoritative writers on the law of nations, not from popular usage.

In the military and naval services, and in the business of administrative departments, where there are different degrees of official rank, and a great variety of duties to be performed, a necessity arises for a technical nomenclature similar to that used for describing the parts of a ship or machine. Not only in the army and navy, but in the revenue departments, as the Customs, Excise, and Post-office, in the administration of justice, the police, and other branches of the public service, an artificial phraseology for the description of a connected series of officers and powers is needed; and it is varied or enlarged from time to time as convenience may dictate. A similar necessity exists in the learned professions, as in that of law, and, to some extent, in that of medicine. The names of degrees in universities likewise belong to the same category.

Terms of finance, viz., those connected with the receipt and disbursement of the public revenue, with the public funds and securities, with coined and paper money, and with other pecu-

(40) Compare Schoemann, *de Comitibus Atheniensium*, for the corresponding phrases at Athens.

niary transactions of a government, are likewise sometimes invented deliberately, in order to facilitate the operations of business; and they acquire a precise signification fixed by official usage.

In conducting the statistical operations of a government, questions of nomenclature frequently arise. It is necessary to form classifications, which bear some resemblance to the labours of the scientific naturalist. Thus, in taking the census of a nation, it may be requisite to classify the population according to their occupations, employments, trades, and other social relations; and in framing classes of this kind, there may be much opportunity for judgment and discretion, inasmuch as the classes thus arbitrarily formed and named are intended to furnish materials for reasoning.

§ 9 We have already remarked, in this chapter,⁽⁴¹⁾ that although the names of titles of offices may pass unchanged through several languages, or may be expressed in different languages by peculiar terms, but with a recognised equivalence, yet they do not form classes, like names descriptive of a certain aggregate of political powers. Thus, as we have already shown, the class of *kings* furnishes no materials for a general proposition, because kings at different times and places have exercised very different powers. A similar remark applies to such titles of honour as *duke, marquis, earl, viscount, baron*,⁽⁴²⁾ to orders of knighthood, to titles of military and naval rank, as *marshal, colonel, admiral*. The names of ecclesiastical dignities and offices, as being derived from a common source, run through the languages of all Christendom; as *bishop, dean, canon, priest*,

(41) Above, § 4.

(42) Raumer (*Geschichte der Hohenstaufen*, vol. v. p. 57) says, that although the title of the graf remained unaltered, the nature of his office, and its rights and duties, were different at different times. With regard to the pfalzgraf, or count palatine, he remarks, that the office was not only different at different times, but it was not the same at different places at the same time (*ib.* p. 64).

The variations in the powers and honours of the titles of duke, count, baron, &c., are traced at length by Selden, *ib.* part ii. ch. i. On the original application of the titles of duke and count to military commanders under Constantine, and the great subsequent change in their meaning, see Gibbon, *Decl. and Fall*, c. 17, vol. ii. p. 29.

deacon. Yet the legal relations of ecclesiastical persons have varied from one age and one country to another. Nobody would think of forming one class from the Roman consuls, the consuls of the Italian republics, and the modern consuls of commerce, because they all bore the same title of office. The identity of name alone does not constitute a class composed of similar individuals. A class so formed is nearly as useless for logical purposes, as a class formed of all the persons bearing the name of John or William would be for statistical purposes.

Many of the Oriental titles of office have in like manner designated persons exercising very different political powers. Thus, the title of *sultan* was anciently given only to sovereigns, and even to the greatest, as the grand signior. It is also sometimes applied to the king of Persia; and yet it is the common title of the inferior class of provincial governors in Persia.⁽⁴³⁾ In like manner, the sovereign of Tartary, and the provincial governors and *grandees* of Persia, both bore the title of *khan*. Many others of the Oriental titles also represented both supreme and subordinate power, as *bey*, *emir*, *sheik*; the *khalifs* of Bagdad, having originally been sovereign princes, were at last deprived of all temporal power, and reduced to the mere service of the mosque.⁽⁴⁴⁾ Indian titles, such as *rajah*, *zemindar*, *nizam*, *peshwah*, have varied in like manner through different degrees of power; nor can the precise functions of the office in question be known, without an inquiry into the special circumstances of each country.

§ 10 Indeed, the national individuality of a political office, considered as an aggregate of powers, is often so manifest, that

(43) Chardin, *Description de Perse*, tom. v. p. 257: ed. Langlès.

(44) D'Herbelot, *Biblioth. Orientale*, in 'begh,' 'emir,' 'khalifah,' 'khan,' 'pad,' 'solthan,' 'scheikh,' 'scherif.' On oriental titles of supreme power, see Chardin, *ib.* tom. vi. p. 1-6. Nearly all these titles represented various aggregates of power and degrees of dignity; sometimes applied to sovereign power, sometimes to inferior rank. Pharaoh, as applied to the ancient kings of Egypt, is said to have been a title of office, not a personal appellation.—Joseph. *Ant.* viii. 6, § 2. Alcalde and ammiraglio are European names of offices, derived from the Arabic, al-kadi and emir. See Ducange, in 'Amir.'

no attempt is made to translate its name, and the native term is used in history, and by foreign nations. Thus, the Athenian *archons* and the Spartan *ephors*, the Roman *dictator*, *consul*, *questor*, *prætor*, *ædile*, *tribune*, *centurion*, the *chagan* of the Avars, the *major-domus* or *maire du palais*, the *podestà* of the Italian republics, the *scabini* of the middle ages, and other officers, are named by their proper title of office, without any attempt at finding an equivalent.⁽⁴⁵⁾

In other cases, too, where peculiar institutions are described, it is found more convenient and more precise to adopt the native term than to attempt a translation, which could only approximate to the meaning. Hence, such words as *taille*, *gabelle*, *corvée*, *octroi*, are generally used in their original form: names of classes, involving social distinctions and position, are likewise often untranslatable for a like reason. The word *γένος*, or *gens*, is imperfectly rendered by *clan*, *house*, or *family*.⁽⁴⁶⁾ The French *noblesse*, *roturier*, and *tiers état*; the English *gentleman*, *commons*, and *yeoman*; and the German *bauer*, cannot be adequately rendered in any other language. Many of the native Indian names for offices, courts of justice, and other political ideas, are used in English as technical terms, without any attempt at translation.⁽⁴⁷⁾ Many similar words in Oriental countries have been adopted into European languages, as *vizier*, *cadi*, *mufti*, *divan*, *firman*, and the titles of offices already mentioned. Hence, too, such words as *κῆρυξ*, *δηνάριον*, *πραιπόριον*, *κουστωδία*, which occur in the New Testament, were transplanted by the

(45) Our old translators sometimes attempted to render the titles of offices into English. Thus, in the authorized version of the Acts, the *ἄρχοντες* are called 'the chief of Asia,' *γραμματεὺς* 'the town clerk;' so *λεπτορῆναι* are 'robbers of churches,' xix. 31, 35, 37, 38; see also the enumeration of officers, including sheriffs, in the third chap. of Daniel. In like manner, the old German writers (as Niebuhr remarks, *Hist. of Rome*, vol. i. n. 1376) called the Roman tribunes *Zunftmeister*, or masters of guilds.

(46) See Grote's *Hist. of Gr.* vol. iii. p. 88, n. The word *ostracism* is translated by Nepos—'Testarum suffragiis, quod illi ostracismum vocant.' Cimon, c. 3; compare *testula*, Aristid. 1. The Greek *σπαργηγοί* is rendered by *prætores*, Milt. 4. Conon i.

(47) See the glossary in the first vol. of Mill's *Hist. of India*.

Greeks into their own language from that of their conquerors and rulers.⁽⁴⁸⁾ The Greek writers on Roman history were manifestly perplexed by the difficulty of finding equivalents for the technical names of Roman offices and institutions, and by the intolerance of their own language for foreign terms. Some names they translated: thus, the consuls were called ὕπατοι, the tribunes of the people δῆμαρχοι, the censors τιμηταί: but they could find no native name for *dictator*, and hence were forced to acquiesce in the use of the alien term δικτάτωρ.⁽⁴⁹⁾ In later times, such words as κναίστωρ for *quæstor*, πραιτωρ for *prætor*, &c., were introduced:⁽⁵⁰⁾ and when the Roman law was extended to the Eastern empire, the necessities of legislation broke through all philological scruples; as may be seen on a cursory examination of the *Basilica*.

Sometimes, again, questions arise as to the equivalence of titles of office, and other technical political terms, in different languages; and the same term is not translated in a uniform manner. Thus, the Anglo-Saxon titles of *ealdorman*, or *thane*, were rendered by *consul* and *dux*, as well as by *comes*; and the same terms were sometimes used as equivalents of the later title of *earl*.⁽⁵¹⁾ After the time of Charlemagne, a controversy arose between the eastern and western empires, as to the Latin title which was equivalent to *basileus*. The head of the western empire claimed to be called *imperator*, or emperor,

(48) On untranslatable words, see Locke, *Essay concerning Human Understanding*, iii. 6, § 8. 'The terms of our law (he remarks) which are not empty sounds, will hardly find words that answer them in the Spanish or Italian, no scanty languages.'

(49) The word δικτάτωρ is used by Polyb. iii. 87, who calls the prætor the ἑξαπέλευς στρατηγός; later writers call him πραιτωρ. The term δικτάτωρ is explained by Plutarch, *Camill.* 18; *Marcell.* c. 24. Concerning ὕπατοι, and the origin of the name, see Dion. Hal. iv. 76. The office of ædiles is explained by a periphrasis, in Dion. Hal. vi. 90. The *Feciales* are not translated: Διὰ τῶν εἰρηνοδικῶν, οὓς καλοῦσι Ῥωμαῖοι φειαλεῖς, Dion. Hal. vi. 89. Οἱ καλούμενοι φηγιαλεῖς, Plutarch, *Cam.* 18. So Plutarch, *Public.* 12, παρέδωκε τοὺς καλουμένους φάσκης.

(50) See the Treatise of Joannes Lydus, *De Magistratibus P. R.* in many places.

(51) Selden's *Titles of Honour*, part ii. c. 5, § 7.

while the Greeks would only concede to him the title of rex, or king.⁽⁵²⁾ The chief magistrates of the Carthaginians, called suffetes—a name apparently corresponding to the Hebrew schophetim, or judges—are described by the Roman writers as equivalent to their consuls, while Polybius denominates them *kings*.⁽⁵³⁾ In translating from one language into another, different writers may use different approximative terms as equivalents; while others may resort to periphrasis, or may use the original word untranslated.⁽⁵⁴⁾

The difficulty of rendering titles of offices from one language into another by exactly corresponding terms, may be compared with the difficulty of translating the deities of polytheism from one national system into another. Thus, the Greek Cronus, Zeus, Here, Pallas, Hephæstus, may be considered as corresponding pretty exactly with the Latin Saturn, Jupiter, Juno, Minerva, Vulcan; and the deities were treated as equivalent, or identical, by the Greeks and Romans themselves. At the same time, there were certain deities in either religious system for which it was not possible to find exact equivalents in the other.⁽⁵⁵⁾ The correspondence of the Greek gods with Syrian and Egyptian deities is also to a great degree arbitrary and fluctuating;⁽⁵⁶⁾

(52) Gibbon, c. 49.

(53) 'Suffetes, quod velut consulare imperium apud eos erat.'—Livy, xxx. 7. 'Ut enim Romæ consules, sic Carthagine quotannis annui bini reges creabantur.'—Nepos, *Hannibal*, 7. Called βασιλεῖς in Polyb. iii. 33, § 3; vi. 51. The chiefs of the Visigoths were likewise at one time called judges.—Gibbon, c. 25.

(54) The import of the technical terms of a legal or political system must be understood before they can be safely rendered into another language. Thus, the French term 'droits de timbre' has sometimes been rendered 'duties on timber;' and in the following passage in Dumont's edition of Bentham's work on *Legislation*, there appears to be a confusion between lands held in mortmain and burial-grounds: 'Un jour les gens d'église alloient s'emparer de toute l'Angleterre en changeant les biens-fonds en cimetières. La législation arrêta cette métamorphose.'—*Traité de Legislation*, tom. i. p. 314, ed. 1802.

(55) Dion. Hal. (ii. 50) speaks of certain Roman deities whose names it is difficult to express in the Greek language. In iii. 32, he says that the Sabine and Latin goddess Feronia was sometimes rendered into Greek as Anthephorus, sometimes as Philostephanus, sometimes as Persephone. Plutarch, *Cam.* 5, Ζεὺς, ἢν Μητέρα Μαιεύσαν καλοῦσι τ' Ὀυμῆτοι.

(56) According to Herodotus, the Assyrians call Aphrodite (or Venus) Mylitta; the Arabians call her Alitta; and the Persians Mitra. (i. 131.) Astarte was variously identified by the Greeks and Romans with Venus,

nor are the grounds on which the equivalence of the German and Roman deities was established always very apparent.⁽⁵⁷⁾

The technical terms of the physical sciences generally run through the languages of all civilized nations:⁽⁵⁸⁾ but each political community has many technical terms of government, or law, which are peculiar to itself, and constitute a part of its history. In cases like *consul*, *dictator*, *princeps*, *prætorian prefect*, *scabinus*, *podestà*, *maire du palais*, *pope*, *doge*, *elector*, *chancellor*, *chief justice*, the history of the term is the history of the office, and the history of the office is a history of an important institution. Titles such as these, being used to designate an institution peculiar to a single place, rather resemble proper names than common appellatives. They designate a series of officers, having certain powers and a certain position in common, but its sphere is so limited as to resemble a family perpetuating a hereditary name through successive generations.

Sometimes, indeed, an office is considered as characterized by certain important and peculiar functions attached to it; and its name is generalized so as to form a true appellative. In this way we may, with Lord Bacon and others, speak of the *prætorian jurisdiction* of the English Court of Chancery.⁽⁵⁹⁾ Appellatives of

Juno, and the moon. Lucian (*De Syr. Deâ*, c. 32) says that the great Syrian goddess corresponds with Juno; but she has something of Minerva, and Venus, and the moon, and Rhea, and Diana, and Nemesis, and the Fates. Herodotus identifies Osiris with Dionysus, and Isis with Demeter; likewise Orus with Apollo, and Bubastis with Artemis, (ii. 42, 59, 156; see Diod. i. 11, 12;) but all these parallelisms are fluctuating and unfixed. Diodorus (i. 25) says that 'generally there is much discrepancy respecting the Egyptian deities. Some call the same goddess Isis, others Demeter, others Thesmophorus, others the moon, others Here, while others give her all these appellations. Again, some consider Osiris as Sarapis, others as Dionysus, others as Pluto, others as Ammon, others as Zeus, and many identify him with Pan. Some say that Sarapis is the god whom the Greeks call Pluto.'

(57) In translating the Greek and Roman names of the days of the week, Tuisco was taken as the equivalent of Mars, Woden of Mercury, Thor of Jupiter, and Freya of Venus. Compare Grimm's *Deutsche Mythologie*, p. 84-93, ed. 1. See also Tacit. *Germ.* (9 and 43), where, alluding to a German tribe, he says: 'Deos, interpretatione Romanâ, Castorem Pollucemque memorant.'

(58) As to exceptions to this proposition, see Whewell, *ib.* p. xxvii-ix.

(59) See *De Augm. Scient.* l. viii. aph. 32-46. Speech on taking his place in chancery, vol. vii. p. 244; Blackstone, *Com.* vol. iii. p. 50.

classes so formed may be compared with names generalized from real models—of which more will be said in a future chapter.⁽⁶⁰⁾

§ 11 The preceding remarks show that there is a technical vocabulary in politics, which is formed by the adoption, partly of popular words, and partly of terms used in various departments of practice. The latter class of terms, when engrafted into the language of politics, have all the properties of a technical vocabulary; they acquire a fixed meaning, independent of popular control; they require a special study, like the terms of any other art, in order to master their meaning, and to use them in discussion with ease, promptitude, and accuracy; they are obscure to the uninitiated, but facilitate, abridge, and guide the process of reasoning for those who are familiar with their use; and they sometimes even admit of being divided, like the terms of a physical science, into a terminology and a nomenclature.

Those political terms which represent the higher class of abstractions, such as *right*, *law*, *monarchy*, *republic*, *sovereign*, *church*, *money*, &c., and which do not, like legal, parliamentary, financial, military and naval, or commercial terms, belong to a peculiar department of practice, are those which are subject to most ambiguity, and partake least of the characteristics of technical terms. Whether these ideas be represented by popular words pressed into the scientific service, or by terms specially invented for the purpose, they are equally subject to this defect. Even, however, in the physical sciences a similar defect of language may be observed. Thus, the subordinate terms of mechanics—those which describe mechanical contrivances and their parts—have precise and fixed significations; but such terms as *force*, *momentum*, and *velocity*, continue to exercise the ingenuity of the mechanical metaphysician, not less than the highest abstractions of politics.

(60) Below, ch. xxi. § 8.

CHAPTER V.

UPON THE METHODS OF OBSERVATION IN
POLITICS.

§ 1 IT has been already shown,⁽¹⁾ that the subject-matter of politics is the nature and acts of a government, and the acts and relations of men as determined by, or affecting, the government. There is, indeed, no subject of human knowledge which may not come incidentally into consideration, either in political speculation, or in the legislative and executive business of government;⁽²⁾ but the proper subjects of political science and practice are human acts and relations, and the juristical relations of men to external things. Now all these lie open to our observation; they are all manifested in actions, words, signs, or other phenomena, which occur within the range of our senses. No part of the subject-matter of politics is, like the operation of the vital functions, or the processes of thought, withdrawn from our powers of external observation. The facts of politics, indeed, like those of ethics, and of all other sciences involving human action, are subject to that obscurity which covers all exertions of the human will; but the means of interpreting volition do not properly belong to politics.

We will now proceed to examine in what manner these powers are brought to bear upon the field of politics; and for this purpose we will first inquire how their exercise differs from observation in physics.

§ 2 On looking at the methods of observation employed in the physical sciences,⁽³⁾ we perceive that in this department

(1) Above, ch. ii. § 9.

(2) Compare Mill's *Essays on some Unsettled Questions of Pol. Economy*, p. 130-3.

(3) According to M. Comte (*Cours de Philosophie Positive*, tom. ii. p. 19), there are three modes of observation. 1. Observation properly so

of knowledge, there are two sorts of observation, assisted and unassisted. Unassisted observation is the observation of the mere senses, unprovided with any artificial contrivance for increasing their powers, or guiding their perceptions. Such is the common case of observation : it includes all the results of our ordinary sensations. It is in this manner, for example, that the leading facts of natural history and botany are determined. Assisted observation is observation aided by some artificial contrivance ; such as the telescope, for increasing the power of sight at a distance ; or the microscope, for increasing it in the examination of minute objects near the eye.⁽⁴⁾ The various instruments, which the profound ingenuity of modern science has devised for the measurement of linear distance, angles, time, weight, the pressure of the atmosphere, force, temperature, &c., likewise furnish far more exact results than our unaided sensations could afford, and give to physical observation a precision and compass which may, in a certain sense, be truly denominated superhuman.⁽⁵⁾

Now, in politics there are no artificial contrivances for increasing or guiding our powers of observation. All observation is unassisted. The substratum of this science is derived exclusively from the information of our unaided senses. But

called, or the direct examination of the phenomenon as it presents itself naturally. 2, Experiment, or the contemplation of the phenomenon, as modified more or less by artificial circumstances, introduced intentionally by ourselves, with a view to its more complete investigation. 3, Comparison, or the successive consideration of a series of analogous cases, in which the phenomenon becomes gradually more and more simple. The third head (as to which see tom. iii. p. 343) seems not so much a species of observation, as a mode of arranging observations, with a view to a proper investigation of the phenomena. Upon the manner in which it is applied in natural history, see Cuvier, *Règne Animal*, tom. i. p. 6. It depends on (what is called by Dr. Carpenter) the law of *progressive development* ; see his *Principles of General and Comp. Physiology*, § 200.

According to Humboldt (*Cosmos*, vol. ii. p. 212), there are three stages of the investigation of nature—passive observation, active observation, and experiment.

(4) On artificial aids to the senses, see Bacon, *Nov. Org.* ii. 39.

(5) See Playfair's *Dissertation*, *Encyc. Brit.* vol. i. p. 467 ; Whewell's *Phil. of Ind. Sciences*, b. xiii. c. 2 ; Herschel's *Treatise on Astronomy*, c. 2. Compare Herschel's section on meteorology, in the *Admiralty Manual of Scientific Enquiry*.

then, it is to be remembered that, if the political observer does not employ these artificial aids, it is because they are superfluous, not because they are unattainable. The facts falling under the cognizance of politics are so plain and patent, and so accessible to our scrutiny, that unassisted observation is sufficient for their determination; and no more refined instrument than our naked senses is needed. The phenomena with which political science and political practice have to deal lie within the sphere of simple sensation, and require no apparatus of philosophical instruments—no quadrants or telescopes, no thermometers or hygrometers—for their perception or registration.

§ 3 But although the observation of the unaided senses suffices to determine all the facts with which politics, both scientific and practical, is concerned, yet there is a difference as to the manner in which the observer employs those unaided powers. Observation, unassisted by any artificial contrivance, may be either intentional or unintentional; in other words, either active or passive.

Unintentional or passive observation is of those matters which present themselves unsought and spontaneously to the observer; which meet his eyes as he is employed in his ordinary occupations; which cross his path while he is taking his customary walk; which occur within the range of his senses without his going in search of them, and without any arrangement or premeditation on his part. The only voluntary act, or determination of the will, which is required of him for this purpose, is *attention*: if he does not *attend* to the phenomena which present themselves to his senses, he will retain no distinct impression of them; but his observation is not the result of any *intention* or design. The great majority of the facts recorded in history, and of the facts deposed to by witnesses before a court of justice, fall under this head. They are facts which the witnesses observed, as having had, by the circumstances in which they were naturally placed, an opportunity of observation, and not as having stationed themselves designedly in a position fitted for observing. Thus a person who was present at some

memorable transaction, either as discharging some public duty or as a mere bystander, may afterwards make a record of the events which occurred within his notice. The chief body of the facts upon which history is founded are observed in this manner. They are derived from the testimony of persons who, having been present at a transaction, make a permanent record of their impressions, but were not present for the purpose of recording it. So, in a case of circumstantial evidence, each witness deposes to a fact which he happened casually to observe, and which, taken by itself, is insignificant; nor is it until the several facts, observed singly and independently by the witnesses, are connected by the reasoning of the prosecutor, that their probative force is understood.

Intentional observation is when the observer desires to observe a certain object, and places himself in such a position as will enable him to observe it with advantage. Such is the case with a commander-in-chief on a field of battle: a seaman on the look-out in a ship: a policeman or soldier on duty; and, generally, any person appointed to keep watch, and to guard or protect anything. All visits made for purposes of examination—inspections of prisons, hospitals, barracks, and other public institutions; inspections of troops, and of military and naval stores—inspections of buildings or ships, to ascertain their state of repair—fall under the same head. The same may be said of observations of natural objects made for scientific purposes; surveys of land and sea; and sketches by an artist for a portrait or a landscape. A person may likewise observe any public proceeding or exhibition, such as the debates of a deliberative body, a trial in a court of justice, a public execution, a procession, or a theatrical representation, with a view of noting the events, and recording them as they occur. This is the case with a short-hand writer, or reporter, the registering officer of a court, or the minute-clerk of a council. Here the purpose of the observer is avowed, and not concealed: on the other hand, a spy is an intentional observer, whose observations are nevertheless believed by those with whom he comes in contact to be unintended.

All the manuals containing precepts and rules for the guidance of the observer, lead to observations which fall under this head.⁽⁶⁾ Works of the class just adverted to point the attention of the observer to proper objects of observation: they also teach him in what manner these objects are to be observed, and how the observations may be best recorded. No general rules can, however, be given, applicable to the mode of conducting observation in all sciences. Each science must lay down its peculiar canons of observation, and direct the attention of its followers to the proper objects of observation, and the best modes of observing them.⁽⁷⁾

Intentional observation (as appears from the examples adduced) goes beyond the mere passive reception of impressions made accidentally upon the senses. It is observation, and something more. To a certain extent, it is a process of investigation. An observer of this sort observes with a definite purpose, and with a desire to observe. He selects the objects upon which he directs his attention; he places himself in a position favourable for their close, accurate, and steady examination; and, if it be necessary, he varies this position from time to time.

This is an intelligent, self-originated, and active process; and, for its due performance, often requires appropriate knowledge, a sagacious and discriminating judgment, and analytical reasoning. The intentional observer must proceed by the method of rejections, excluding from his view those objects which are irrelevant, and confining it to those which are relevant. This mental process, by which the attention is diverted from all that is foreign to the matter in hand, and concentrated upon that which is important to it, may be compared to the use of a telescope,

(6) With respect to the physical sciences, see the *Manual of Scientific Enquiry*, prepared for the officers of H. M. navy on foreign service, and edited by Sir J. Herschel; also Col. Jackson, *What to Observe*; and Sir H. de la Beche, *How to Observe*.

The difference between active and passive observation is marked in Bacon (*Nov. Org.* i. Aph. 100). The former is when 'experientia lege certa procedit, seriatim et continenter.'

(7) See Mill's *System of Logic*, vol. i. p. 438, who remarks that there is not properly an art of observing.

which shuts out all objects lying beyond a definite circle, and fixes the vision upon one object within that limited area. Sometimes, indeed, the discrimination between the objects which are to be attended to, and those which are to be neglected, is comparatively easy, as in the case of reporting the proceedings of a deliberative assembly, or a court of justice; but in other cases, this discrimination requires a sound and exercised judgment, and mature experience.

We may remark that, in the order of observation, passive sensations generally have the precedence. Certain phenomena present themselves unsought to our senses; our curiosity is aroused; we are desirous of ascertaining their nature, of discovering their relations to other objects, of converting them to our uses, or controlling their action. Our observation then becomes intentional; and our senses are directed to a given end.

§ 4 From what has been said, it appears that all observation in politics is simple and unassisted, but that it may be passive and unintentional, or active and intentional, according to circumstances. Such being its general character, we may proceed to inquire what are the chief departments of the subject over which its operations are distributed. These appear to be threefold, and they may be designated, in general terms, as historical, scientific, and practical.

The first department of political observation marked out for our review is the historical: that is to say, we have to consider what are the characteristic attributes of the observation proper to the historian.

Political history is a register of political facts.⁽ⁿ⁾ It observes

(8) Vossius lays it down that the subjects of history are τὰ πρᾶκτά—actions, and those which are μνημονεῖς ἀξία.—*Ars Historica*, c. 4 (in his *Works*, vol. iv.) 'Per actiones intellige res gestas publice vel privatas illustriores.'—*Ib.*

'The subject of history is events, and actions of men, as they occur in chronological succession.'—Creuzer, *Historische Kunst der Griechen*, p. 227.

According to M. Daunou, 'L'histoire est le récit des faits positifs qui, dans le cours des siècles, ont déterminé la formation, les progrès, les vicissitudes, les destinées, des sociétés humaines.'—Tom. vii. p. 147. 'La ma-

those facts which concern a nation ; it selects the most important, arranges them in proper order, and relates them in a continuous narration. Historical facts are noted and recorded as individual events, clothed in all their circumstances : they are described with reference to the actors concerned in them, to the time when, and the place where, they occurred. The object of the describer is to individualize that particular fact,⁽⁹⁾ not to refer it, by a process of abstraction, to any genus or species ; or to employ it as a stepping-stone to an ulterior conclusion. Chronology and geography, as determining the time and place of the events described, are therefore essential parts of history.⁽¹⁰⁾

Something, however, is necessary to history beyond the full description of individual facts, identified as to person, time, and place. It must describe a *connected series* of such facts relating to the same subject, whether it be a nation or any other community.

It is peculiar to societies of men to have a history.⁽¹¹⁾ Some species of animals are gregarious, and live in communities ; but their acts, being instinctive, are constant and uniform ; so that one community closely resembles another, and the successive generations of the same community are not distinguishable from each other. The bees of one hive resemble those of another

tière essentielle de l'histoire consiste dans les faits. . . . Le mot de *faits* est complexe ; il comprend d'abord les desseins, projets, ou entreprises ; puis les actions, ou démarches, avec leurs circonstances ; en troisième lieu, les résultats ou événements, avec distinction de ce qui est fortuit, et de ce qui procède d'une cause connue.—*Ib.* p. 72 ; and see, further, p. 304, 311. Concerning the origin and meaning of the word *history*, see Creuzer, *ib.* p. 174 ; Wachsmuth, *Theorie der Geschichte*, p. 2 (Halle, 1820).

(9) 'Historia proprie individuorum est : quorum impressiones sunt mentis humanæ primi et antiquissimi hospites ; suntuque instar primæ materie scientiarum.'—Lord Bacon, *Descriptio Globi Intellect.* vol. xi. p. 1.

According to Vossius, history is 'cognitio singularium, quorum memoriam conservari utile sit ad bene beateque vivendum.'—*Ars Historica*, c. 4. Vossius makes the genus *cognitio*, not *narratio*, because events retained in the memory, and not reduced into the form of a narrative, are, in his view, a history. He rightly confines history to *singulars*.

(10) As to chronology and geography being essential parts of history, see Vossius, *Ars Historica*, c. 14 ; D'Alembert, *Discours Préliminaire de l'Encyclopédie* : Œuvres, tom. i. p. 217.

(11) See Zachariæ *vom Staate*, vol. ii. p. 224.

hive; and the successive occupants of the same hive construct their comb, and collect their honey, in precisely the same manner;⁽¹²⁾ whereas man, being determined in his acts, not by blind instinctive impulses, but by a free, rational intelligence, moves in a varied and self-chosen line of conduct; and thus, not only do the acts of one political community differ from those of every other community, but the successive acts of the same community differ from one another.

All organized beings, endued with life, are subject to die, and their species is perpetuated by a reproductive process.⁽¹³⁾ Like man, therefore, both plants and animals have a chronological succession. The verses of Lucretius, descriptive of the continuity of life, contrasted with the universality of death, are applicable to the whole animated creation :

Rerum summa novatur
Semper, et interse mortales mutua vivunt.
Augescunt alie gentes, alie minuuntur;
Inque brevi spatio mutantur secla animantium,
Et, quasi cursores, vitai lampada tradunt.
(ii. 74-8).

There are generations of horses, dogs, and cattle, as well as of men, and their pedigree may be deduced through a succession of parents and offspring. With regard to the vegetable kingdom, there is not only the substitution of the new for the old plant, but there is also the annual substitution of the new for the old leaf, and the annual production of the flower and fruit. Hence, Homer speaks of the generations of leaves, and compares the succession of the generations of men with their successive alternation of death and life.⁽¹⁴⁾ But in the animal and

(12) See Carpenter's *Human Physiology*, § 429, p. 321.

(13) See Carpenter's *Principles of General and Comparative Physiology*, § 215. We may apply to the reproduction of men, the verses in which Horace describes the successive occupants of the same land in the nomad life:—

'Defunctumque laboribus
Æquali recreat sorte vicarius.'

Carm. iii. 24.

14 *Iliad*, vi. 146-9. Walter Scott has likewise used the same comparison: 'Human beings succeed each other, as leaves upon the same tree, with the same individual difference and the same general resemblance.'—*Old Mortality*.

vegetable kingdoms there is succession without variety. A new generation is substituted, but does not differ from the old one. The succession of animals, and of generations of animals, is like the succession of waves, beating upon the sea-shore; there is incessant change, without variety or progress. No individual animal has a biography; no herd, flock, tribe, community, or generation of animals, has a history.⁽¹⁵⁾ Man alone has a variety of moral acts, as well as succession of generations. Hence, we may have a continuous history of each community of men; each separate history, if duly registered, forming an unbroken series of dissimilar terms, and differing from the history of every other community. Not only each fact recorded, but the history of each community, and the history of each successive period or generation of the same community, is stamped with an individual character. It is not determined by a generic description, but has its own ear-mark.

By observing and registering events as they happen, each generation is enabled to hand on to its successors a historical record, which preserves the memory of the past, and connects one period of national existence with another. Even if a com-

(15) The history of an animal species means either a history of its domestication, or a history of our knowledge of it; as, a history of the elephant, the camel, or the horse. Its history arises from its relation with man: if it were not for man, it would have no history. See, for example, Armandi, *Histoire Militaire des Elephants*; Schneider's *Historia Hippopotami* (appended to Artedi, *Hist. Pisc.*); and the history of the camel in Ritter's *Asien*, vol. viii. p. 609. As to the view of the animal creation taken by the historian, see Lassen, *Indische Alterthumskunde*, vol. i. p. 296. A domesticated animal may likewise pass through a succession of states which may admit of a sort of biographical description: as in the fable of the aged horse, (Babrius, *Fab.* 29,) the war-horse maltreated in peace, *ib.* *Fab.* 76.

A. v. Humboldt distinguishes between the history and the natural history of animals:—'Toutes ces considerations (he says) appartiennent à l'histoire des animaux, c'est-à-dire, aux changemens qu'a éprouvés, par la suite des siècles, la distribution géographique des animaux sur le globe, histoire bien différente de la partie descriptive, vulgairement appelée, *histoire naturelle des animaux*.—*Eramen Crit. de l'Hist. de la Geogr. du Nouveau Continent*, tom. i. p. 40. Natural history contains nothing historical, in the proper sense of the word.

Bacon truly remarks, that whereas political history is exclusively concerned with singulars, natural history is concerned with classes, *ib.* vol. xi. p. 4. On the distinction between political and natural history, see Rotteck, *Allgemeine Geschichte*, introd. § 2.

munity could advance in civilization without a history, (which is scarcely conceivable,) it would be unconscious of its progress.⁽¹⁶⁾

§ 5 It is this continuous series of facts relating to the same subject which constitutes a *narrative*. Narration is essential to history;⁽¹⁷⁾ and in political history, the central point about which the narrative revolves, or rather the advancing line which the narrative constantly follows, is a political community. Where political events, relating to different countries, and unconnected with one another in the way of causation, are arranged in a chronological order (such as the annual chronicle of occurrences published in some almanacs), they do not form a narrative, though they are materials for history: they bear the same relation to history as a collection of proverbs or apophthegms bears to an ethical treatise or a moral discourse. Dr. Whewell lays it down that every palætiological science consists of two parts—a knowledge of the phenomena, and a knowledge of their causes—which he calls respectively *phenomenology* and *ætiology*.⁽¹⁸⁾ This remark is made principally with reference to physical history; but all intelligent political history likewise involves both. In order to frame a coherent narrative, *some* theory of causation is necessary.

Any persons may be made the subject of narration, if their acts and adventures, whether real or fictitious, are described. Thus,

(16) 'Nescire quid antea quam natus sis acciderit, id est semper esse puerum. Quid enim est ætas hominis, nisi ea memoriâ rerum veterum cum superioribus contextitur?'—Cic. *Orator*, c. 34. History unites the past with the present and future, by recording former actions for the instruction of posterity.—D'Alembert, *Discours Préliminaire de l'Encyclopédie*; *Œuvres*, tom. i. p. 217.

'A quelque degré que puisse jamais parvenir la progression sociale, il sera toujours d'une importance capitale que l'homme ne se croie pas né d'hier, et que l'ensemble de ses institutions et de ses mœurs tende constamment à lier, par un système convenable de signes intellectuels et matériels, ses souvenirs du passé total à ses espérances d'un avenir quelconque.'—Comte, *Phil. Pos.* tom. iv. p. 581.

(17) Compare *Essay on Authority in Opinion*, p. 146. On historical narrative, see Vossius, *Ars Historica*, c. 11, 12. According to the *Treatise de Vit. et Poes. Hom.* c. 74, (attributed to Plutarch,) narrative is made up of the following elements—person, cause, place, time, instrument, action, passion, and mode.

(18) *Phil. of the Ind. Sciences*, vol. ii. p. 101.

which their great art of narration partly consists; for such by-circumstances must be used sparingly, inasmuch as they are not essential; but if the incident be characteristic, though extraneous, its effect is often good.

Minute circumstances, such as strike an eye-witness, are picturesque and interesting in description, though not necessary parts of a narrative. Xenophon's account of the first appearance of the advancing enemy before the battle of Cunaxa, is vivified by details which are not essential to the contexture of the events.

'It was now noon, and the enemy were not yet visible: but when the day was declining, a dust was seen like a white cloud, and soon afterwards a dark hue on the plain for a long distance. As they came nearer, the flashing of brazen armour was perceived here and there, and the spears and the men's bodies could be discerned.'—(i. 8, § 8.) So the circumstances mentioned by Macbeth, in his account to Lady Macbeth of Duncan's murder, constitute the dramatic effect of the scene, though the mere narrative of the successful accomplishment of his crime would have been complete without them.⁽²²⁾

Narrative differs from mere description in requiring a chronological series of connected events. Whereas description is of objects existing or occurring simultaneously, and not connected by way of causation. Historical narrative may be expanded by description; and the description may be either intended to give a vivid image of the transaction (as in the description of the advance of the Persian army just cited from Xenophon), or it may be necessary in order to render the narrative intelligible; such as the description of a field of battle, or of the defences of a besieged town. The history of Herodotus abounds with descriptions; as do the histories of Alexander's campaigns, and of the Spanish conquests of Mexico and Peru; the plans and charts of a military history are also a sort of description. Geographical

(22) It has been remarked that the account of the death of Patroclus, in the *Iliad*, is given in great detail when the object is to interest the hearer or reader; but when the message of his death is brought to Achilles, the fact is communicated in two words, *καίτις Πάτροκλος*.

sketches introduced into history, as that of Italy by Polybius, and of Arabia by Gibbon, likewise fall under the category of descriptions. In legal proceedings, all descriptive amplification is rejected, and the naked narrative is alone retained. Even here, however, description is sometimes necessary in order to make a narrative perspicuous, as when the plan of a building is exhibited in court.

§ 6 The history of a political community is analogous to an epic⁽²³⁾ or dramatic composition, or to a novel; inasmuch as they both narrate a succession of human acts and sufferings. It is also analogous to the history of a science, or art, or mechanical invention, which is the subject of successive treatment by different men; for example, astronomy, or painting, or the steam-engine.⁽²⁴⁾ In such a history as this, the successive performances of a variety of men, in relation to the same subject matter, are narrated, each being portrayed individually, and referred to its proper author and moment of time. It is also analogous to the clinical history of a medical case; in which the successive symptoms of the patient's malady, and the successive stages of the treatment, are chronicled day by day; or to a ship's log-book, in which the progress of the vessel, as regulated by the navigator through the opposing or advancing influences of winds, tides, currents, &c., is registered. Lastly, it bears a certain analogy to a physical history of the earth, or of a portion of it; such as, a history of geographical or geological changes in the earth's surface,⁽²⁵⁾ or a narrative of the progress of a volcanic eruption, an earthquake, a hurricane, or an inundation. In a

(23) On the historical character of the epos, see Col. Mure's *Hist. of the Literature of Ancient Greece*, vol. i. p. 171.

(24) In the article, 'Bibliography of the History of Inventions,' in Beckmann's *Hist. of Inv.* vol. i. p. 475, 8vo, the various histories of this sort are classified.

(25) See Montesquieu, *Projet d'une Histoire Physique de la Terre Ancienne et Moderne*, 1719: *Œuvres*, tom. vii. p. 55. Ritter (*Ueber das Historische Element in der Geographischen Wissenschaft*; *Berlin Transactions*, 1833: *Hist. Phil. Klasse*, p. 41), elucidates the historical treatment of geography, in so far as it contains an element subject to successive changes.

history of this sort, there is no question of human volition or intelligence, but only of a series of changes produced by physical agents, in which its essential distinction from political history consists. Geographical history, however, and narratives of great physical catastrophes, contain much which relates to the works and sufferings of men.⁽²⁶⁾

There is another characteristic point of difference between historical and physical facts, arising from the individual nature of the former, to which it is proper for us to advert.

Facts, in the physical sciences, either recur in definite cycles, as the phenomena of astronomy, of animal and vegetable life, and of foliation and fructification; or they recur at indeterminate intervals, as the phenomena of mechanics, optics, heat, and electricity. The latter are in many cases reproducible at our volition, as in all experimental phenomena. Historical facts, on the other hand, cannot be reproduced. They are not recurrent, either in fixed cycles, or at uncertain intervals; but, having once happened, are not repeated. They succeed each other in an interminable and perpetually varying series.⁽²⁷⁾

Now it is true that a physical fact is as much a complete and past event as a historical fact. For example, the fact that at Rome, on the ides of March, in the year 44 B.C., the sun appeared above the horizon in the east, at a certain moment, is as much an event past and gone as the fact that, on that day, Julius Cæsar was assassinated in the senate-house. But the physical fact of the sun's rising recurs every day; whereas the historical fact has never been, nor can ever be, repeated. If all the observed facts upon which any physical science is founded were lost and forgotten, the observations might be renewed, and from these observations the science might be reconstructed.⁽²⁸⁾ But

(26) For example, Pliny's account of his uncle's death, *Ep.* vi. 16; the description of the earthquake at Lisbon, in the *Universal History*; Sir J. D. Lauder's *Account of the Floods in Scotland, &c.*

(27) On the difference between physical and historical facts, see Daunou, *Cours d'Etudes Historiques*, tom. i. p. 8; tom. vii. p. 195.

(28) Sir J. Herschel remarks, with respect to astronomy, 'It has been asserted (and we believe with truth), that were the records of all

when the evidence of historical facts is lost, nothing can replace them; and although inferences as to human life and society may be drawn from *other* facts, still the void created by the loss in question can never be supplied. If the observations by which Kepler calculated the orbit of Mars had been destroyed by fire, they might have been replaced by subsequent astronomers; but if the work of Thucydides had perished, we should have been deprived for ever of his authentic and instructive narrative.⁽²⁹⁾

It is for this reason that the preservation of historical evidence is of primary importance. When once destroyed, it can never be restored. The chemist can at any moment reproduce the phenomena of matter; he can elicit the electric spark, or decompose water; but no human power can evoke the long series of events which must (for example) have occurred on the banks of the Euphrates and the Nile, before the dawn of authentic history. Hence, too, it is a mistake to suppose that *erudition* is distinct in its aim from *science*; and that the collection of facts relative to a past age of the world is a barren exercise of misdirected diligence, or the mere caprice of a frivolous curiosity. It is the business of erudition to collect, verify, weigh, compare, arrange, expound, and illustrate, the testimonies to ancient facts connected with man: the learned are the pioneers and ministers of history, and furnish the materials out of which the philosophy of politics and human nature is,

observations from the earliest ages annihilated, leaving only those made in a single observatory (Greenwich), during a single lifetime (Maskelyne's), the whole of this most perfect of sciences might, from those data, and as to the objects included in them, be at once reconstructed.'—*Disc. on the Study of Nat. Phil.* § 67.

(29) In reference to the absence of extant contemporary historians, between Xenophon and Polybius, M. Daunou says, 'Ceci nous montre beaucoup trop sensiblement l'une des difficultés qui sont propres au genre d'études qui nous occupe. De pareilles lacunes, si grandes et si peu réparables, ne peuvent exister dans les sciences naturelles, ni dans celles dont les progrès dépendent de la profondeur des méditations, des efforts de la pensée, ou bien même de l'activité d'imagination, de la fécondité du talent. Le génie n'a point de limites, et ses forces lui suffisent pour étendre son domaine: l'histoire, au contraire, est une science; elle n'est exacte et réelle qu'en se circonscrivant dans le cercle des souvenirs positifs, authentiquement transmis, qu'en puisant à des sources que rien ne peut rouvrir quand la main du temps les a fermées.'—Tom. xii. p. 22.

in part, constructed. So far is the man of erudition from dealing with facts inferior in importance to physical facts, that the facts with which he deals are unique; if lost, they can never be replaced, inasmuch as they possess an individuality which can never be imitated. Whereas physical facts always recur, and can often be reproduced at will; and hence, whatever value may belong to accurate and intelligent observations in any department of physics, they certainly have not that value which consists in their loss being irreparable.

The preceding remarks are sufficient for a general characteristic of history, and of the mode in which facts are observed and narrated by the historian. Inasmuch as it is chiefly by means of history that political facts are described and recorded, it will be necessary to return to the subject, and to give it a fuller consideration in subsequent parts of this treatise.⁽²⁰⁾

§ 7 Having ascertained the manner in which political facts are noted and registered by the historian, we have next to consider what is the light in which they are regarded by the scientific writer on politics, and what is the character of the facts out of which he constructs his system. For this purpose, we will separate political science into its two branches, of *positive* and *speculative*.

The characteristic of observation, for purposes of positive political science, is, that it looks at the observed facts as specimens or samples of a class, and without reference to their individual identity. It considers the facts which it observes with relation to certain selected properties and attributes, pertinent to the matter in hand. Provided that the facts are so far determined, it is satisfied: it does not seek to identify each fact, so as to distinguish it from all other facts, and to exhaust its peculiarities by a detailed enumeration, or portray them by a pictorial description.

In positive politics, government and society are considered as being in a state of equilibrium, and their relations are described as they exist at any assumed moment, but without reference to

(30) See ch. 7.

any determinate period of antecedent time. The facts to which the positive branch of politics directs its attention, are the frame and construction of a government, and its relation to the people; how a government begins, and ceases to exist; what are the different forms of government, the circumstances which constitute a law, a right, an obligation; how rights and obligations arise, and how they are extinguished; what is a legal status; what are the relations of an independent and a dependent community; what are the relations of independent communities; what constitutes international law, and the like. The phenomena which are material for constructing true propositions on these subjects belong to a class which is in its nature recurrent, and is not dependent on the circumstances of a particular moment, or place, or person. Thus, the facts which determine the nature of a law, which, taken together, constitute our notion or conception of a law, are not peculiar to this or that law, passed, at a certain time and place, by certain persons. They may be taken as samples of the constituent elements of *all* laws, and therefore admit of being generalized. In this respect they resemble phenomena in physics, which are constantly recurrent; which are considered without reference to their identity, and merely as specimens of a class, and serve to establish formulæ which are universally true. The generalizations of positive politics (as we have already shown) have the genuine scientific character. They are true universally, so far as they represent the limited and abstracted facts upon which they are founded. The facts which serve as the basis of positive politics are observed solely with reference to their properties as members of a class; and all the circumstances which are irrelevant to his limited purpose, which do not admit of being brought under his generalization, are rejected by the observer, and excluded from his notice. The phenomena of governments, laws, and political states, which he notes, are universal, and independent as well of the individual persons concerned, as of time and place: they are not conceived as the terms of an infinite series, in which each term differs from every other, but as facts which must be reproduced,

under forms essentially similar, wherever and whenever a political society exists. A man possessed of this knowledge can as readily recognise the objects described in Peru or China, as a chemist can recognise oxygen or hydrogen, or a botanist can recognise certain plants in any part of the world. An American law has not a different nature or properties—considered as the subject of jurisprudence—from an European law, nor an African from an Asiatic law. But the political events of each nation or political unit, considered as the subject of history, have an individual character, and can only be understood if taken as successive parts of a connected whole, and in conjunction with antecedent as well as subsequent events.

§ 8 Speculative politics, or legislative science, is, as well as the positive branch, founded on observation; but the facts on which it relies are less bare and naked than those with which the other department of political science is contented. The generalizations of positive politics merely describe something which exists: they merely affirm, for example, that a government, or a law, or a legal right, has certain universal attributes; or that certain properties are essentially involved in the idea. They pronounce nothing to be good or bad; they lay down no general propositions respecting the tendency of laws or institutions. Whereas speculative politics, or legislative science, undertakes to determine the operation of political causes, and to establish principles which may guide the legislator in making new, or altering old laws. Now the process by which we arrive at the conclusion that monarchy, for example, or aristocracy, or democracy, tends to produce certain consequences is, in the main, a deductive process. But the facts upon which the inferences rest are less abstract than those which support the propositions of positive politics. They may consist in part of admitted principles of human nature, which require no special proof; but, more generally, they are historical facts, accompanied with their circumstances. For example, an argument proving that the general tendency of despotic government is bad, might refer to the oriental despotisms, the Greek *τύραννοι*, the Roman empire, the absolute princes of

Italy in the middle ages, the absolute monarchies of Europe from the seventeenth century downwards, and the empire of Napoleon. At other times the facts referred to by the political speculator are those political facts susceptible of a numerical expression, which are commonly called *statistical*. When, however, these facts have served their purpose, and have been used in the induction to which they contribute, they are discarded, and are replaced by the general proposition which they have served to establish. They are not related on their own account; but are used merely as a platform to raise the spectator to a higher elevation.

§ 9 The third class of facts which fall within the range of political observation are those which are observed for a practical, and not for a historical or scientific purpose.

The whole of the executive business of government is founded upon certain facts, which have to be ascertained by a proper process of observation and inquiry, before the executive functionary proceeds to act. This process is necessary both for administrative and judicial authorities; for ministers of state, boards of revenue, soldiers and sailors, officers of police, and for magistrates and courts of justice. In some cases, the facts are numerous, intricate, doubtful, contested, and difficult to ascertain: in other cases, they are simple and undisputed. But still, before the executive power of the government is set in motion, even for the most trifling purpose, some fact or facts must be previously known or determined.

All legislation likewise proceeds upon the knowledge of certain facts. Whatever may be the general maxims by which the legislator is guided, the occasion of his legislation must be indicated by certain events. The existence of certain political evils, the failure of an existing law for its admitted object, popular discontent with existing institutions, extraordinary occurrences, such as a war, a famine, a pestilence, may be the circumstances which induce the legislator to act. All these are facts to be determined by proper observations, either made under the direction of the legislative authority, or communicated to it.

The proper modes of observation for the conduct of a govern-

ment involve numerous and important practical questions. One important function of the executive government consists in the immediate observation of facts by its own agents; which is the case generally with all public functionaries engaged in duties of inspection, protection, care, and superintendence: such as the military and naval services, policemen, revenue officers, officers of prisons, hospitals, charitable institutions, &c. Functionaries of this sort either act at once upon a view of the fact observed, or report it to a superior officer for his information. Diplomatic agents, again, obtain authentic information as to the proceedings of foreign governments, and other events of public importance in the countries to which they are accredited, and transmit an account of them to their own government.⁽²¹⁾ At times of war, in particular, and of popular commotions, early and accurate information is of great importance.⁽²²⁾ A government must, as guardian of the public interests, take measures of various kinds for obtaining trustworthy and regular intelligence upon certain classes of subjects. Persons so employed are like the *speculatores* or reconnoitring party of an army, or the watch of a ship—they keep a look-out, in order to give timely notice of danger. In cases where the executive power of the government is to be set in motion, and where no information is obtainable from its own officers, the facts must be ascertained by extraneous testimony. For this purpose rules are necessary, such as constitute, in great measure, the practice of administrative departments, and the forms of judicial procedure with respect to the reception of evidence.

The subject of judicial evidence has been treated by jurists with more or less fulness since jurisprudence became a science; but it has, perhaps, been elaborated in more detail, and has received a more systematic form, in England than in any other country. This has been owing to peculiarities in the procedure of our courts of common law, which need not be here noticed.

(21) See Wicquefort, *L'Ambassadeur et ses Fonctions*, lib. ii. sect. 10; and Vattel, *Law of Nations*, b. 4, § 123.

(22) Upon military signals by means of fire, see the curious discussion of Polybius, x. 43-7. Compare Vegetius *de Re Mil.* iii. 5.

With respect to our present subject, the most important rule of evidence in the law of England is that which prescribes the exclusion of *hearsay testimony*; that is to say, of statements of fact made by the witness, not from his own observation, but from the observation of others. We shall have occasion to advert at greater length hereafter to this rule, in connexion with the subject of historical testimony; ⁽³³⁾ but we may now refer to it as recognising the principle, that the facts deposed to before a court of justice must be derived from the personal observation of the witness himself. In judicial proceedings, therefore, where the facts are determined, not by official reports of agents of the government, but by the testimony of witnesses taken casually from the midst of the community, the general principle is recognised by our law, that the witness must speak to an event which occurred under his notice, and within the reach of his senses.

The usual course of proceeding for an executive government is, to receive information of facts, and thereupon to issue orders. Government messengers bring reports, and carry back instructions. An act of administration is always founded upon some prior fact, the existence of which is ascertained either by official agents, or by the testimony of extraneous witnesses. The peculiarity of an administrative proceeding is, that the proper authorities may act upon the knowledge of the fact without being applied to, or set in motion, from without; whereas, a judicial tribunal can never take notice of any fact which is not brought before it by a complaining party, according to the established forms of procedure.

The process of ascertaining facts for legislative purposes is not in general so formal, or subject to such strict rules of evidence, as the procedure of executive departments, whether administrative or judicial. Petitions, complaints, remonstrances, statements of grievances, are presented to a legislature; or, if it consist of a deliberative body, individual members of that body

(33) Below, ch. vii. § 6.

may represent facts upon their own authority. It may then either proceed at once to legislate upon the faith of such suggestions; or it may take them as raising merely a presumption, and may institute an inquiry of its own. It may call for papers, accounts, correspondence, and other documents: it may likewise, by proper means, examine witnesses, and thus ascertain by original testimony the facts bearing upon the subject under consideration.

The facts to be ascertained in inquiries conducted for the information of a government, are generally such as fall within the senses of ordinary persons, and require no peculiar skill or experience for their observation. But it is necessary that such an investigation should be conducted by a person of proper qualifications and experience; and it is his business to select the persons who can speak to the material facts, and to arrange their evidence in a convenient and lucid order. Such, for example, is the function of a legal practitioner who prepares a case for a trial in court; and such is the function of a person who presides over an inquiry for a legislative or administrative purpose.

A government may narrow too much its means of observing and ascertaining facts. It may make rules excluding evidence in judicial proceedings; it may refuse to hear complaints and receive petitions; it may be supine in instituting inquiries for practical purposes; it may allow important social phenomena to pass by unheeded and unregistered. For example, no complete enumeration of a population was made by any European country until the last century, and in England not until 1801. In no Mahometan country could a government venture to take a census, as an inquiry into the number of women in a house would be considered an intolerable violation of the domestic rights of the head of the family. Again, by the exclusion of the public from the proceedings of judicial and deliberative bodies, the means of reporting and recording them may be practically interdicted.

On the other hand, the government may systematically employ spies, as was done under the Roman empire, and by

Napoleon and some of the other despotic governments of the Continent. This system may be carried so far as to destroy all freedom of speech, and confidence of intercourse.⁽³⁴⁾ The opening of letters in the post-office, and the seizure of private papers, are likewise powers which governments in general exercise with reserve and caution, and principally in order to assist the enforcement of the criminal law.

Generally, it may be said that one of the first duties of persons invested with any political functions, is to observe accurately and extensively the subjects committed to their care. If it be the head of a government, a minister of state, or the governor of a province, he must keep an attentive eye upon all the principal facts which concern the welfare of the entire political community over which his care extends.⁽³⁵⁾ If he be charged with supreme military or naval command, the necessity of a constant, vigilant, and active superintendence is equally obvious. If he be a functionary having a more limited sphere of action, it is his duty to watch carefully all the circumstances which fall within the circle of his duties. For example, an officer of the excise must take note of all the proceedings of the manufacturer, an officer of police must take note of all the infractions of public order within his inspection. In proportion, indeed, as the scale of duties descends, the necessity for immediate and personal observation on the part of the functionary increases. Superior officers are more assisted by vicarious observation. They receive reports and accounts from various subordinate officers and departments; and are thus able to form a collective opinion upon the state of things from the testimony of numerous original witnesses. But although a person exercising high political functions does not in general derive much information from the observation of his own senses, it is, on that account, the more necessary for him to be regularly supplied with the results of the observations of others. It has long ago been

(34) See Tacit. *Agric.* c. 2.

(35) 'Ad consilium de republicâ dandum, caput est, nosse rempublicam.'
—Cic. *de Orat.* ii. 82.

perceived that the purposes of government require not only that information should be exact, but that it should be punctually transmitted, and regularly conveyed, from the reporting functionaries to the seat of empire, or to the proper superior officer. The first institution of government posts is due to this want of a central government; posts were established both in the Persian kingdom and in the Roman empire, for the purpose of conveying intelligence from the governors of provinces to the sovereign.⁽²⁶⁾ In modern times, the mechanical improvements by which communication, both by sea and land, has been so greatly facilitated, have rendered the transmission of intelligence to the seat of government rapid, frequent, and regular, to an extent which the most active imagination in antiquity could not have contemplated.⁽²⁷⁾ Railways, steam navigation, and telegraphs, have

(26) The king's messengers, in the Persian empire, who carried his orders to the satraps in the subject provinces, were called by the Greeks γραμματοφόροι, or despatch-bearers.—See Plut. *Cimon*, 19; and Lucian, *Rhet. Preceptor*, c. 5, on the γραμματοφόροι of Alexander.

(27) The slow progress of news, even on the most important political events, in the ancient states, appears from many facts mentioned incidentally by the historians. Thus Athenagoras, the popular orator at Syracuse, throws doubts on the Athenian expedition, and represents the report of it as a trick of the oligarchical party, in a speech which was probably made about the time when the armament was sailing from the Piræus, and consequently after numerous debates in the Athenian ecclesia, and a long series of preparations for war. (Thuc. vi. 36; and as to the time of the speech, see Grote, vol. vii. p. 249.) As to the account of the catastrophe at Syracuse being brought to Athens by a casual visitor, see the story in Plutarch, *Nic.* 30; and compare the expressions in Thuc. viii. 1. Plutarch speaks of an obscure rumour as to the capture of Rome by the Gauls having found its way to Greece in the time of Heraclides Ponticus, and of its being accurately known to Aristotle. (*Camill.* 22.) Now Rome was taken by the Gauls in 390 B.C., and Aristotle was only born in 384 B.C., six years after the event; and Heraclides could not have preceded him. (See Gell. *N. A.* xvii. 21, § 25.) Livy thinks that Alexander the Great was not known, even by report, to the Romans of his own time (ix. 18).

Cæsar, in whose time the Romans had organized a regular system of communication by means of military roads and messengers, censures the reliance of the Gauls upon unofficial rumours in matters of government:—*‘Est autem hoc Gallicæ consuetudinis; nti et viatores etiam invitos consistere cogant, et quod quisque eorum de quâque re audierit aut cognoverit, querant; et mercatores in oppidis vulgus circumstiat, quibusque ex regionibus veniant, quasque ibi res cognoverint, pronum ciarecogant. His rumoribus atque additionibus permoti de summis sæpe rebus consilia ineunt: quorum eos e vestigio penitere necesse est; quum incertis rumoribus serviant, et plerique ad voluntatem eorum ficta respondeant.’*—*De B. G.* iv. 5.

reduced the obstacles to communication arising from space to a very low quantity ; and in addition to the official information systematically procured by a government, much intelligence likewise reaches it by the newspapers, and other voluntary channels.

A statesman who guides the practical policy of a country in its internal and foreign relations, to whom the public look for advice and decision at seasons of distress, difficulty, doubt, and danger ; when invasion is threatened, when civil dissensions arise, when food is scarce, when commercial panic rages, and the national credit is impaired—is often likened to the steersman who stands at the helm, and regulates the course of the ship. Like the steersman, he can only guide the national policy by an attentive and vigilant observation of all the material facts, upon which the safety of the state depends.

The observations which are converted to the use of the historian, and those which are made for the purposes of government, bear a close resemblance to one another ; inasmuch as, in both cases, the full fact is noted, with all its circumstances of agent, time, and place. Hence it is that official reports, prepared for the information of government, or evidence given in a court of justice, though intended merely for a definite practical purpose, may be afterwards employed by the historian as materials for his composition. Thus the Venetian *Relazioni*, and other diplomatic correspondence, and reports of state trials, become historical documents, though they had originally no historical purpose. History, however, is a narrative of the successive acts of a nation ; it implies a series of events, connected either in the way of causation, or of chronological sequence ; whereas the investigations of a government for practical purposes are generally much less extensive in their reach, and relate to a single transaction, or to a few consecutive and connected events.

§ 10 The observation, registration, and arrangement of those facts in politics which admit of being reduced to a numerical expression has been, of late years, made the subject of a distinct science, and comprehended under the designation of *statis-*

tics.⁽³⁸⁾ Although the accounts kept for the use of a government may sometimes be called statistical, yet it is of the essence of statistics that its object is scientific, not practical; that it is intended to represent the truth of facts, not to subserve some immediate purpose of administration or legislation.⁽³⁹⁾ The cultivation of statistics has been owing, in great measure, to the increased attention which the science of political economy has received since the writings of the French economists and of Adam Smith; inasmuch as many of the most material facts relating to trade, currency, taxation, production, population, &c., admit of being represented in numbers. Nevertheless, statistics may include all branches of political observation; for example, there are statistical accounts of crimes and punishments, of diseases and mortality, of education, and of other subjects.⁽⁴⁰⁾

The facts observed and recorded by the statistician are important not only to the historian and the political philosopher, but also to the practical statesman. To the historian, statistical facts concerning the population, commerce, military and naval strength, revenue and expenditure of a country, are important, as serving to illustrate the condition of the people whose acts and destinies he narrates.⁽⁴¹⁾ The political speculator has frequent reference to them in establishing principles of legislation, especially in the province of political economy, where the facts are peculiarly susceptible of arithmetical notation; and although statistical accounts have properly no immediate relation to

(38) As to the origin of this term, see above, ch. iii. § 9.

(39) Upon the nature and province of the science of statistics, see the introduction to the *Journal of the London Statistical Society*, vol. i. 1839. The science of statistics (it is there remarked) 'does not discuss causes, nor reason upon probable effects; it seeks only to collect, arrange, and compare, that class of facts which *alone* [F] can form the basis of correct conclusions with respect to social and political government. . . . Its peculiarity is, that it proceeds wholly by the accumulation and comparison of facts, and does not admit of any kind of speculation.' In this respect it resembles *history*. It is further remarked, that 'the statist commonly prefers to employ figures and tabular exhibitions.'

(40) As to the increased observation and registration of economical facts by governments, see Blanqui, *Histoire de l'Économie Politique*, tom. ii. p. 326-9.

(41) See, for example, Mr. Macaulay's *Hist. of Engl.* vol. i. c. 3.

practice, yet as they correctly represent, upon a large scale, the facts with which he has to deal, the practical statesman can scarcely take a single safe step without consulting them. Whether he be framing a plan of finance, or considering the operation of an existing tax, or following the variations of trade, or tracing the influences of a poor-law, or studying the public health, or examining the effects of the criminal law, his conclusions ought to be principally guided by statistical data. It is by comparing the numbers of the subject under consideration, by noting whether they have diminished, or increased, or been stationary, and by inquiring into the causes of such a state of things, that his practical judgment ought to be formed. At times when information of this kind was not considered necessary as the foundation of political measures, legislation must often have proceeded upon casual and partial facts, upon an imperfect knowledge of the general state of things, and, in some cases, almost at hap-hazard.

The systematic observation and registration, on a large scale, of political facts which admit of being enumerated is, as we have already stated, a modern practice, even among civilized nations. Among Oriental nations it is nearly, among savage tribes it is wholly, unknown. Enumeration is a slow and laborious process; and until experience has taught us its necessity where correctness is required, there is a disposition, particularly among uncultivated people, to rely upon conjecture. 'To count (says Dr. Johnson) is a modern practice; the ancient method was to guess; and when numbers are guessed, they are always magnified.'⁽⁴²⁾ The first impression made upon the mind by a large number almost always exceeds the truth; so that there is a natural tendency to exaggeration, when the belief is uncorrected by enumeration. Besides, in many of the accounts of armies, and of men killed in battles, of the size of buildings, and the like, national vanity, and the love of the marvellous, contribute to swell the amount.⁽⁴³⁾ It is not until civilization has made

(42) *Journey to the Hebrides; Works*, vol. ix. p. 95. Gibbon somewhere calls arithmetic the natural enemy of rhetoric.

(43) See Winer, *B. R. Wörterbuch in Zahlen*; Niebuhr, *Hist. of Rome*, vol. ii. p. 69.

great progress, and it is understood that government cannot be properly conducted without a knowledge of the past, that political facts, susceptible of numeration, are recorded without a view to immediate practical application. The numerical facts preserved from antiquity chiefly relate to the national revenue or treasure, the numbers of the fighting men, and the account of the taxable property, all of which were determined for practical purposes. It may be laid down as a practical rule, subject to no exception, that all statements of large numbers, not founded, directly or indirectly, upon actual enumeration, are unworthy of credit. Where actual enumeration of the entire number is too troublesome or too tedious a process to be employed, a computation resting upon some more limited enumeration may be relied upon as an approximation to the truth. For example, if an entire population cannot be counted, a correct enumeration of the houses, combined with an estimate of the average number of inmates of each house, will afford an authentic, though inferior, substitute. But a mere conjecture of numbers, unsupported by any fixed datum of calculation, is wholly uncertain. (")

(44) The uncertainty of numerical accounts, not founded upon actual enumeration, but derived from a loose estimate or a general impression, is strikingly shown in the writings of the historians of the Spanish conquest of Mexico. All these accounts are taken from eye-witnesses and contemporaries; and yet they are, for the most part, wholly undeserving of credit; and differ widely from each other.

The number of human victims annually sacrificed in Mexico is estimated by some writers as 50,000; by none lower than 20,000.—Prescott, *Hist. of the Conquest of Mexico*, vol. i. p. 72. Both numbers are utterly incredible. In his first great battle with the Indians, Cortes is said to have lost two Spaniards; but the number of Indians slain varies, in different writers, from one to thirty thousand.—*Ib.* p. 260. The population of the town of Cempoalla is estimated by Las Casas at 20,000 or 30,000: Torquemada hesitates between 20,000, 50,000, and 150,000.—*Ib.* p. 311. The numbers of Tlascalcan enemies are variously estimated at 30,000, 40,000, and 80,000.—*Ib.* p. 387.

The population of the Mexican capital, at the time of the conquest, is variously stated. 'Nothing (says Mr. Prescott, vol. ii. p. 104) is more uncertain than estimates of numbers among barbarous communities, who necessarily live in a more confused and promiscuous manner than civilized, and among whom no regular system is adopted for ascertaining the population.'

The discrepancies in the account of the loss suffered by the Spaniards and their Indian allies, on the disastrous night when they retreated from

The rarity of statistical enumeration until modern times may be best illustrated by the history of censuses of the population. The earliest census of which we have any record is that of King David; who caused the fighting men of his dominions to be enumerated.⁽⁴⁵⁾ For Athens there is the nearly complete census taken by Demetrius Phalereus; and for Rome there are various imperfect accounts for purposes of taxation, founded, however, on actual enumeration. There are also several incidental statements of the population of particular towns in antiquity, which appear to be generally conjectural, and therefore not trustworthy. The same absence of authentic information as to numbers of population continues through the middle age, and even to a comparatively recent date.⁽⁴⁶⁾ For the most part, the tediousness of counting an entire population *per capita*, has induced a resort to the more compendious methods of numeration afforded by the art of arithmetic. Thus, the total number of a population may

the capital, are collected by Mr. Prescott.—*Ib.* p. 345. The number of Mexicans who left the capital after it had been taken by the Spaniards is estimated at various numbers, from 30,000 to 70,000 (vol. iii. p. 186); the estimates of those who perished during the siege vary from 120,000 to 240,000.—*Ib.* p. 187. 'It will be safer (says Mr. Prescott, after reviewing these conjectural computations) to dispense with arithmetic, where the data are too loose and slippery to afford a foot-hold for getting at truth.'—*Ibid.*

As to the numerical inaccuracies of the ancients, see Hume's *Essay on the Populousness of Ancient Nations*.

It is stated that a register was kept of all the births and deaths in the kingdom of Peru, and that exact returns of the population were made every year to the government, by means of *quipus*, or knotted cords, by which arithmetical ideas were signified. (Prescott's *History of the Conquest of Peru*, vol. i. p. 50, 110.) This enumeration was made for a practical purpose: inasmuch as the labour of a large part of the people was put in motion by the government.

Actual enumeration of large numbers is much rarer, even at the present day, than is commonly believed. It is stated on good authority, that the accounts of the numbers of books in the public libraries of the Continent are generally exaggerated; and that the library of the British Museum is the only large library in which the volumes have been actually counted.

(45) With respect to the Jewish census, see *Num.* iii. 40-51; and as to the advantages of a complete enumeration of the people, Michaelis' *Com. on the Laws of Moses*, art. 172. As to David's census, 2 *Sam.* xxiv. 9; *Joseph. Ant.* vii. 13.

(46) Upon the uncertainty of modern accounts of population, see Voltaire, *Essai sur les Mœurs*, app. remarque xix.

be approximately determined from the number of heads of families, or of fighting men, or of houses and hearths, or from the annual births or deaths, by assuming a certain ratio to serve as the basis of computation. Other indirect means of determining the numbers of a body of men may be adopted; such, for example, as a measurement of the area upon which a given number may stand, which was the rude process adopted by Xerxes for counting his vast host, before his invasion of Greece.⁽⁴⁷⁾ The Oriental countries, both in ancient and modern times, have been destitute of authentic accounts of their population.⁽⁴⁸⁾

The importance of accurate statistical information, as the basis of historical description, as well as of political reasoning, both speculative and practical, cannot be too much insisted on. The attention of modern governments has been directed to the subject, and it has been understood that a constant registration of social and political facts ought to be kept up, without any immediate practical object; like the observations of the heavenly bodies, temperature, weather, tides, and other natural phenomena, made by the physical philosopher. Facts, unimportant in themselves, become important as units comprised in a complete enumeration; and results are thus obtained, to which mere conjecture, or the loose and vague impressions derived from a partial observation, could not have led. This process is now carried on,

(47) Herod. vii. 60. The same method of counting is said by Quintus Curtius to have been adopted by Darius before the battle of Issus; iii. 2.

Alluded to by Seneca, *De Brev. Vita*, c. 16:—'Quam per magna camporum spatia porrigeret exercitum, nec numerum ejus, sed mensuram comprehenderet Persarum rex insolentissimus, lacrimas profudit,' &c.

(48) 'Comme dans les pays orientaux, l'on n'a point de listes des nés et des morts, il est fort difficile d'apprendre quelque chose de positif de la population des villes. Si l'on veut s'en informer chez les habitans, ils parlent toujours de quelques centaines de milliers; mais en général on trouvera que la population n'est à beaucoup près pas si considérable qu'on le pense communément en Europe, d'après de pareilles informations.'—Niebuhr, *Voyage en Arabie*, tom. ii. p. 179.

'Tous les calculs de population en Turquie sont arbitraires; parce qu'on n'y tient point de registres de naissances, de morts, ou de mariages. Les musulmans ont même des préjugés superstitieux contre les dénombrements. Les seuls chrétiens pourraient être recensés au moyen des billets de leur capitation.'—Volney, *Voyage en Egypte et en Syrie*, tom. i. p. 192.

with more or less completeness, by all civilized governments, and the collection of statistical information, not merely for practical, but for scientific purposes, is recognised as a legitimate object of public policy. There are now statistical departments in all the principal states of Europe.

Statistical information differs from the observation of positive politics, in being less abstract. Place and time, and the numerical relations of persons, though disregarded in positive politics, are essential elements in statistics.⁽⁴⁹⁾ On the other hand, statistical observation is more abstract, and less full, than the observation of the historian. It disregards the identity of the persons or objects with which it deals, and considers them only as the subjects of numeration. In looking at a statistical table, all we know is, that it represents a certain number of homogeneous units; men, or pounds sterling, or bags of cotton, or acres of land, at a certain time, and within certain limits of space; it takes no account of the distinctive peculiarities of each unit. The historian, however, as such, identifies everything, and describes all the persons of his drama with their individual characteristics and conduct. Except when he mentions statistical facts, he knows of no units considered merely as making up a numerical whole. The men whom he describes are living and acting men; not mere figures in an arithmetical table.⁽⁵⁰⁾

§ 11 The remarks which have been made with respect to the scientific importance of statistical observation, apply still more strongly to history. In proportion as contemporary events

(49) Mr. Fletcher, in his work *On the Moral Statistics of England and Wales*, p. 2, gives the following characteristic of statistical data:—'All the first figures of such records as are now adduced profess to register exhaustively certain definitely described circumstances, as those attaching to a stated number or class of individuals, at a specified time, in a place with limits accurately described; and all the value of the results is involved in the character of the first observation never being obscured by any subsequent operations, as by averages so crude as to conceal all distinctiveness of character; or by applying an ascertained rate of progress in one set of elements to another set, . . . or by the comparison of results between which no parity really exists.'

(50) On the empirical method of treating medicine, by means of what is called medical statistics, see Comte, *Cours de Phil. Pos.* tom. iii. p. 418.

are in each country recorded with fidelity, and combined into a harmonious narrative, by accurate, impartial, and intelligent writers, will materials be accumulated for a sound political philosophy, and a judicious political practice. Every community which lives together under a government, however rude and unstable, must (as we have already seen) have a history. It must possess a variable and continuous series of public acts, common to itself, and differing from those of any other community. The history of a savage tribe would, however, if it were recorded, contain little that was instructive, except in the way of caution. It would merely be a succession of acts of rapine, treachery, and cruelty—of marauding expeditions, without military skill or discipline, and of improvident debauchery alternating with famine—the whole unredeemed by any higher mental qualities than dexterous cunning, and passive endurance of pain.⁽⁵¹⁾ Such communities, however, being ignorant of the arts of civilized life, neither possess the power of making a record of their history, nor feel the want of such a monument of the past. 'In nations (says Dr. Johnson) 'where there is hardly the use of letters, what is once out of sight is lost for ever. They think but little; and of their few thoughts, none are wasted on the past, in which they are neither interested by fear nor hope. Their only registers are stated observances and practical representations. For this reason, an age of ignorance is an age of ceremony. Pageants and processions, and commemorations, gradually shrink away, as better methods come into use of recording events, and preserving

(51) That the observation of social facts in the infancy of society is of little use to a civilized community, is remarked by Comte, *Cours de Phil. Pos.* tom. iv. p. 227. Volney, however, remarks, that different epochs may be distinguished in the history even of savage tribes, where their successive states have been registered by civilized neighbours. (*View of the U. S. of America*, p. 430; Engl. trans.) The same observation is made by Hugh Murray (*Enquiries*, p. 330): 'Though we have accounts of the present condition of a variety of savage nations, yet we have nothing which can be called a history—nothing which exhibits them in a state of progress. The continued intercourse of Europeans with these rude tribes may in time, perhaps, supply the deficiency.' Volney (*ib.* p. 469) justly points out the importance of understanding savage nature; but this knowledge is not, properly speaking, historical: it resembles natural history rather than history.

rights.'⁽⁵²⁾ The successive events in the national existence of such a community pass by like the spectres in a phantasmagoria, or the images in a dream, without leaving any other trace behind them than the confused and imperfect memory of contemporaries, and the permanent results of the physical labour of former years. Where, indeed, a tribe is in the wandering or nomad state, it imprints on the face of the earth no durable marks of its existence. One generation of such a society after another vanishes from the earth, like the track of a ship on the water. The successive generations of a tribe of Bedouin Arabs pass into as complete an oblivion as their own horses.⁽⁵³⁾

As nations emerge from the barbarous state, they begin to be conscious of the peculiarities which distinguish them from the lower animals, and to understand what are the ideas involved in the continuity of a political society. By degrees, they take an interest or a pride in the past achievements and destinies of their

(52) *Journey to the Hebrides; Works*, vol. ix. p. 61.

(53) 'The negroes, the most degraded race among men, whose forms approach nearest to those of the inferior animals, and whose intellect has not yet arrived at the establishment of any regular form of government, nor at anything which has the least appearance of systematic knowledge, have preserved no sort of annals or of tradition.'—Cuvier, *Theory of the Earth*, p. 166; Engl. transl.

'The intellectual character of the natives of this continent presents a peculiar and remarkable deficiency. If we except the Ethiopie language, which is seemingly of Arabic origin, and the unknown characters, probably Phœnician, inscribed by the Tuaricks on their dark rocks, there is not a tincture of letters or writing among all the aboriginal tribes of Africa. There is not a hieroglyphic or a symbol—nothing corresponding to the painted stories of Mexico, or the knotted quipos of Peru. Oral communication forms the only channels by which thought can be transmitted from one country and one age to another. The lessons of time, the experience of ages, do not exist for the nations of this vast continent.'—*Edinburgh Cab. Library, Africa*, p. 313.

The Indians were ignorant of writing, and everything was done by memory alone.—*Megasthenes ap. Strab.* xv. 1.

'Dans la Gaule, proprement dite, aujourd'hui Française, les esprits étaient restés incultes jusqu'à l'époque de l'expédition de Jules César. La littérature et les arts de la Grèce n'y avaient pas pénétré. . . . Voilà pourquoi leurs annales nous sont si mal connues. Ils étaient incapables de les écrire; et leurs Druides, qui n'en auraient pas eu non plus le talent, aimaient mieux demeurer les seuls dépositaires des traditions et des souvenirs, qu'ils pouvaient éteindre, altérer, ou interpréter, selon leurs propres intérêts. Il est arrivé ainsi que leur histoire ne nous a été transmise que par des étrangers, leurs ennemis ou leurs vainqueurs.'—*Dauou*, tom. xvii. p. 488.

own countrymen; though their notions about historical evidence are vague and unsettled. Their curiosity may therefore be easily appeased by fictitious narratives of the past—by legendary tales, heroic myths, ballads, and poems descriptive of the great deeds of an uncertain and undated antiquity. Provided that these recitals preserve an internal consistency, the hearers of such a period do not inquire nicely about the external authority for the story which addresses itself to their patriotic and religious sympathies, or to their love of the marvellous. This was the state of the Greeks in the Homeric age; and from this state the Oriental nations have never altogether emerged.⁽⁵⁴⁾ They have, from an early time, possessed certain registers of the daily life and acts of the king; and individuals (particularly among the Mahometans) have written memoirs of certain periods or events; but no Oriental nation possesses a continuous history, founded upon authentic contemporary records of native writers.⁽⁵⁵⁾

(54) See Sleeman's *Rambles of an Indian Official*, 2 vols. 1844. On the recitation of stories in the coffee-houses by poor Moollahs, either from books or memory, see Niebuhr, *Descript. de l'Arabie*, p. 94. On the fondness of Arabs for the recitation of stories, in the style of the *Thousand and One Nights*, see Volney, *Voyage*, &c. tom. i. p. 373. The same habit prevails in the cities of Asia Minor, *ib.* tom. ii. p. 319. On the habit of story-telling after dinner among the Afghans, Elphinstone's *Cabul*, vol. i. p. 309; also among the Moors, Chenier, *Empire of Morocco*, vol. i. p. 264.

(55) Heeren (*Ideen*, i. 1, p. 134-7, ed. 4) remarks that the orientals were ignorant of history, properly so called. Their chronicles were merely a diary of the king's life. On the uncertainty of the native historical accounts of the great monarchies of Asia, see Clinton, *F. H.* vol. ii. p. 307; app. c. 18, ed. 2. It was derived from royal records, and had a purely official character (something like the court circular of a modern newspaper); it was not composed by private independent historians.—See below, ch. vii. § 22. With reference to the Hindus, Mr. Mill says: 'This people, indeed, are perfectly destitute of historical records. Their ancient literature affords not a single production to which the historical character belongs,' (b. ii. c. 1, and see c. 9.) Upon the early Indian chronicles, see Lassen, *Indische Alterthumskunde*, vol. i. p. 472-8.

Speaking of the works of the native Mohammedan historians of India, Mr. Elliot says: 'They comprise, for the most part, nothing but a mere narration of events, conducted with reference to chronological sequence; without speculation on causes or effects; without a reflection or suggestion which is not of the most puerile and contemptible kind; and without any observations calculated to interrupt the monotony of successive conspiracies, revolts, intrigues, murders, and fratricides, so common in Asiatic monarchies, and to which India, unhappily, forms no exception. If we are somewhat relieved from the contemplation of such scenes when we come to the accounts of the earlier Moghul emperors, we have what is

What we have of authentic Oriental history is mainly derived from the Greeks in antiquity, and from European travellers, residents, and conquerors, in modern times.

Since Herodotus and Thucydides established a model of authentic political history, and showed how positive facts affecting the welfare, the glory, and the feelings of a nation are to be recorded by contemporaries,⁽⁵⁶⁾ there has been among the nations whose civilization is derived from Greece a continuous stream, more or less full, of historical narrative. In rude and illiterate times, this narrative is either meagre, barren, and un instructive ;

little more inviting in the records of the stately magnificence and ceremonious observances of the court, and the titles, jewels, swords, drums, standards, elephants, and horses, bestowed upon the dignitaries of the empire.'

'Of philosophy, which deduces conclusions calculated to benefit us by the lessons and experience of the past, and offers sage counsel for the future, we search in vain for any sign or symptom. Of domestic history, also, we have in our Indian annalists absolutely nothing; and the same may be remarked of nearly all Mohammedan historians, except Ibu Khaldun. By them, society is never contemplated, either in its constituent elements or mutual relations; in its established classes, or popular institutions; in its private recesses, or habitual intercourses. A fact, an anecdote, a speech, or remark, which would illustrate the condition of the common people, or of any rank subordinate to the highest, is considered too insignificant to be suffered to intrude upon a relation which concerns only grandees and ministers, thrones and imperial powers.'—*Bibliographical Index to the Historians of Mohammedan India*, vol. i. pref. p. xiii.-xv. (Calcutta, 1849.)

On the absence of any authentic records of the ancient history of Arabia among the natives, Niebuhr, *Descript. de l'Arabie*, p. 163. The Arabs have no almanacs. In Egypt and Yemeu, the people do not know beforehand on what day the great festivals, such as the Ramadan, begin. There is no certain mode of reckoning time. 'Ainsi, quand les historiens d'Europe savent, avec certitude, qu'un fait est arrivé en Arabie dans les deux ou trois jours déterminés, ils peuvent s'épargner des recherches ultérieures pour le déterminer avec plus de précision.'—Niebuhr, *ib.* p. 104.

The early history of the Afghans is fabulous, (Elphinstone's *Account of Cabul*, vol. i. p. 201, ed. 1842,) but 'they have several histories of particular periods in their own transactions' (*ib.* p. 259). On the inaccuracy of Hindus and Persians, *ib.* p. 326. 'Pour ce qui est de l'histoire, c'est aussi une science peu connue et cultivée chez les Persans.' All the Persian histories, up to the time of Mahomet, are fabulous or romantic compositions, full of improbable tales.—Chardin, *Voyages en Perse*, tom. v. p. 123-5, ed. 1811.

(56) The contrast between the early Oriental and Greek historical writings, drawn by Müller, (*Hist. of Gr. Lit.* c. 18, § 1,) is unjust to the Greeks, in overlooking the great superiority of the historical composition introduced by them.

or if circumstantial, it is deformed with fiction, exaggeration, and inaccuracy. As civilization has advanced, and the useful arts have been improved—the recording of contemporary facts has greatly increased. The invention of printing, the cheapness of paper, the establishment of government posts, the facilities for communication by land and sea, the wide circulation of newspapers, and the perfection of the art of short-hand writing, have, together with the general diffusion of intelligence, and the consequent demand for authentic information as to passing events, contributed to this end. There has been more verification of statements of fact, and less reliance upon common fame and public rumour; upon unattested tradition, and hearsay reports. As the loose admission of ill-ascertained facts in the physical sciences, complained of by Bacon, has been corrected by the strict and precise methods of modern scientific observers;⁽⁵⁷⁾ so the facts which serve as the basis of modern history have been determined by a more faithful and painstaking observation than those fragmentary and imperfectly-attested notices with which the compiler of ancient and mediæval history is often compelled to be content.

§ 12 The principal results of our inquiry with respect to the different sorts of observation in politics, may be summed up briefly as follows: For *historical* purposes, the political fact, with all its circumstances of agent, time, and place, is noted and registered. History is a connected narrative of such facts; it exhibits a succession of events affecting a nation in its collective capacity, and describes them, either as influencing each other, or as regarded from a common point of view. It thus represents the ascertained terms of a continuous, but variable and non-recur-

(57) See *Nov. Org.* l. aph. 98: 'Ac veluti si regnum aliquod aut status non ex literis et relationibus a legatis et nuntiis fide dignis missis, sed ex urbanorum sermunculis et ex triviis consilia sua et negotia gubernaret; omnino talis in philosophiam administratio, quatenus ad experientiam, introducta est. Nil debitis modis exquisitum, nil verificatum, nil numeratum, nil appensum, nil dimensum in naturali historiâ reperitur. At quod in observatione indefinitum ac vagum, id in informatione fallax et infidum est.' Compare aph. 101, upon the importance of a written record of observations, and the danger of trusting to memory.

rent series. For *practical politics*, the fact must be ascertained with as much fulness of circumstances as for history: but in this department of the subject, single facts, or definite groups of facts, and not a long chronological series, are generally in question. *Political science or theory*, observes facts in a more abstract manner. Thus, in positive politics, the attention of the observer is confined to the properties which the members of the class observed have in common, and is withdrawn from those which they have not in common. Unlike history and practical politics, it deals with universals, not with singulars; and it disregards the distinctive peculiarities of individual facts. It describes permanent political phenomena, without reference to order of time, and often without reference to causation. Speculative politics looks at facts in a less abstract form; it is founded upon political experience, as recorded in history; it considers cause and effect, and the succession of events; and it studies aggregates of facts, with many of their material circumstances. But having used the facts for its purpose, it discards them as no longer serviceable; and it merely treats them as steps in a ladder, by which the spectator is raised to a higher platform.

The different modes of observation in politics may be illustrated by a comparison with the corresponding modes of observation in the different departments of medicine.

A history of a medical case, prepared for a clinical lecture, represents the successive stages of that particular case, and the changes which the patient underwent from day to day under the combined influence of the disease, and of its treatment. Such a connected narrative is strictly analogous to political history, and deals with the facts affecting its subject in a similar manner. The practical physician, again, like the practical politician, observes the facts of the case as they occur, with a view to their treatment; but keeps his eye principally on the new phenomena, as they arise from day to day, and does not, like the clinical lecturer, view the whole series of facts in a constant connexion. Both of them, however, look at each fact in the case, with all its circumstances. On the other hand, when the physiologist esta-

blishes such a general formula as that the blood circulates, that nerves are the media of sensation, and the like, he leaves out of sight the peculiarities of individual cases, and makes no reference to any particular person, or to any time or place. This latter process is analogous to the methods of positive politics: again, pathological investigations are analogous to the speculative department of politics, while the maxims of therapeutics correspond with the art.

§ 13 From what was said at the beginning of this chapter, it appears that all political facts are equally open to the observation of the senses, and that they are not of such a nature as to require any artificial assistance for their determination. In this respect, the observation of politics is more simple and easy than that of physics. In many departments of physics, the phenomena are so distant, so minute, and so difficult to detect and to measure, that recourse is had to instruments of various kinds for their observation. In the use of these, much skill, nicety, delicacy, and precision is necessary; and they moreover introduce a set of errors peculiar to themselves, which require a whole system of refined contrivances in order to counteract them.⁽⁵⁸⁾ Errors of observation in physics are often corrected by the multiplication of observations, either of the same or different

(58) See Herschel, *Treatise on Astronomy*, art. 160; and compare Mr. De Morgan's *Essay on Probabilities*, ch. 7. In p. 148 he remarks: 'A reader unused to astronomical works, on opening a book on the practical part of the science, might imagine that no part of the subject pretended even to ordinary accuracy. Nothing appears to be done which is unaffected by serious error; and it seems as if a little more attention to the fabrication of instruments would render nine-tenths of what has been written altogether useless. This appearance is the victory of the head over the hands: the means of detecting the errors of instruments are much more powerful than those of correcting them.'

Compare likewise the remarks of Dr. Carpenter upon the errors of microscopic observation for physiological purposes:—'Investigations into the elementary arrangement of the parts which primarily compose organized structures are often attended with much difficulty and liability to error. The minuteness of the objects which are to be examined, and the changes which may be produced in them by the preparation they are necessarily made to undergo, before being submitted to microscopic inspection, not to mention the deceptions arising from imperfection in the instrument itself, or the mode of employing it, have led to much discrepancy in the statements of different observers.—*Gen. and Comp. Phys.* § 20.

observers; and the opposite errors—some in excess, and some in defect—compensate and cancel each other in a large number. This process must not be confounded with the elimination of chance, by observing a large number of cases; as in gambling with dice or cards, or in the estimation of the probability of life. Politics is not subject to the former class of errors, and therefore does not require the same means of correcting them; but it is peculiarly subject to the latter class of errors, and guards against them by the same process as the physical observer.

Again, some causes of error in observation are common to politics and physics. Such are, a dislike of labour, a want of steady and sustained attention; a proneness to exaggeration, and a love of the marvellous. That physical science has not, more than political history, been exempt from the operation of the latter causes, is proved by the numerous fictions which are to be found in the ancient naturalists, and afterwards became articles of popular faith: such as the existence of the phoenix, the singing of the swan before death, the poisonous qualities of the toad, the shrieks of the mandragora, the long life of the stag, the existence of the unicorn, &c.⁽⁵⁹⁾

But the chief cause of erroneous observation, and the chief obstacle to correct observation, in politics, is *interest*, leading to deceit and bad faith with respect to facts; to the suppression and alteration of the truth, and to the fabrication of falsehood. Whatever relates immediately to human affairs—whatever may produce pecuniary gain or loss, may affect the character and good name of individuals, or may cause pain or pleasure, by acting upon their feelings, or even upon their vanity—is drawn within the sphere of influences hostile to the accurate determination of facts. To this source of error, the practical business of government is peculiarly exposed. Both the legislature and executive are perpetually liable to be misled by false facts, which

(59) Upon the fabulous animals of the ancients, see Cuvier's *Theory of the Earth*, § 26 (p. 74, Engl. transl.)

Aristotle, among his voluminous works, wrote a treatise *ἐν τῷ τῶν μυθολογουμένων ζῴων*, Diog. Laert. v. § 25. Compare Browne's *Vulgar Errors*.

interested persons fabricate for the purpose of procuring an exercise of the sovereign power in their own favour. Falsehoods of this kind are analogous to the various forms of fraud and forgery—or the *crimen falsi*—which are practised between private persons, and which the civil and criminal law prohibit. For example, the imposture practised on a government functionary to obtain public relief, is analogous to the imposture practised on a private individual to obtain his alms. In war, stratagem and deceit of any kind is admissible, for the purpose of misleading the enemy: ‘*dolus an virtus, quis in hoste requirit?*’ A similar latitude used to be allowed in the intercourse of the governments of independent states: but, whatever the practice may sometimes be, the improved morality of international communication in modern times condemns falsehood in an ambassador. Such is the extensive operation of deceit in practical politics; but even the political theorist is not wholly exempt from its influence. The historian is subject to being misled by false historical testimony, and by literary forgeries: erroneous numerical statements are registered by the statistician; and hence the speculator, in framing political theories, may be induced by their authority to rely upon facts which he believes to have been derived from correct observation, but which, in reality, were invented for an interested purpose.

The physical sciences, considered merely as expressive of general truths, are nearly exempt from this source of error. There is little inducement to deception in observations conducted for the use of a physical science. Cheats sometimes occur in medical cases; but they are rare, and easily detected. When the earth had been less explored than at present, and distant regions were imperfectly known, travellers assumed to themselves a considerable licence as to facts; they gratified their vanity, and their desire of surprising their hearers, by inventing marvellous tales of what they had seen and heard.⁽⁶⁰⁾ But the exten-

(60) The ancient geographers fabricated fables about distant lands, says Polyb. iii. 58.

sion of geographical knowledge, and the increased facilities of communication by land and sea, have greatly narrowed the operation of this cause of deceit.

It may be added, that when doubts exist as to the correctness of any observation or experiment in physics, it can in general be repeated, either immediately, or within a short time; and hence physical observations and experiments admit of verification. The exceptions are few; such as remarkable earthquakes, and volcanic eruptions, or changes of level; diseases which have become extinct, such as the sweating-sickness, or which have changed their character. Some astronomical events likewise are so rare, that the observations of them can only be verified at long intervals of time.⁽⁶¹⁾ A historical fact, however, being non-recurrent, and being never repeated under similar circumstances, is incapable of verification: the testimony to it may be re-examined, but the fact itself can never be reproduced.⁽⁶²⁾

But when we pass from the science to the art, in physics; when the occasion arises for the application of physical knowledge to an actual case of practice; and when the advice and services of the mechanist, the architect, the engineer, the chemist, the physician, are called in for any practical decision—then we find that their judgment is liable to be influenced by interest, not less than the judgment of persons whose principles are derived exclusively from the moral sciences;⁽⁶³⁾ and hence the facts which they adduce in support of their opinions may be erroneously or imperfectly observed, or distorted, or coloured, under the influence of the bias which they have contracted.

§ 14 There is another fundamental point of difference between the physical sciences and politics, affecting materially their respective capacities of observation, which we have not hitherto noticed, inasmuch as it is not peculiar to politics, but is common to ethics and all the other sciences conversant with

(61) The last transit of Venus was in 1769. See Herschel's *Astronomy*, art. 411.

(62) See above, § 6.

(63) See the Report of the Gen. Board of Health on the supply of water to the metropolis, (1850,) p. 166.

human action. It is, however, too important to be overlooked in our present comparison.

When we speak of a *political fact*, we always refer, either directly or indirectly, to something involving human action. Whether it be a historical or statistical fact, a fact as observed in political science, or a fact in practical politics, it is, in some form or other, concerned with the acts, dealings, or conduct of men. Now in all human action there are two parts; one is the outward material act, as exhibited in the determination of the will, leading to muscular exertion or rest; the other is the mental state, which precedes, accompanies, or follows such act. It is only the first part of this process which can be the object of observation by an external witness; the mental state, coincident with the act, is purely subjective, and is only known, as a matter of consciousness, by the agent himself. The state of mind accompanying the act of a moral being can therefore only be determined indirectly; and the signs or marks by which it is recognised are two; either the declaration of the person himself, by demeanour, gestures, or words, or the circumstances in which the act is performed.⁽⁶⁴⁾ In many cases, the declarations of the party with respect to the motives or reasons which determine him to a certain act, are free from suspicion, and therefore credible. In some cases they are open to suspicion, as being partially untrue, as suppressing one portion of the truth, or as perverting, colouring, and altering the remainder. In other cases they are wholly unworthy of belief. Inasmuch as the declarations of the agent with respect to the mental antecedents of his act cannot be always trusted, it is necessary to have recourse to other indications of its moral quality.⁽⁶⁵⁾ This is

(64) The knowledge of men's thoughts is, according to Bacon, obtained by six modes; viz.—1, by their countenance; 2, their words; 3, their acts; 4, their character; 5, their ends; 6, the reports of others.—*De Augm.* lib. viii. vol. ix. p. 41. In his *Essay on Negotiating*, he says, 'All practice is to discover, or to work. Men discover themselves in trust, in passion, at unawares; and of necessity, when they would have somewhat done, and cannot find an apt pretext.'

(65) Upon reflection, it will appear that almost all the characteristic principles of ethics are deducible from the secrecy of motives, and the impossibility of discovering them by direct means.

the proper business of ethics and jurisprudence. These sciences expound the nature of imputation or guilt, of moral responsibility, of intention, and negligence; and thus establish the grounds which determine the moral quality of an act, by circumstances independent of the declarations of the agent himself.

That part of human action which is mental, which is distinct from the mere bodily operation of the will, and which invests the act with its moral quality, is concealed from our senses; and as it is never the subject of direct observation, is always inferential. It is not the province of politics to define the grounds upon which these inferences are made, or to assign the marks by which the moral quality of an act is recognised. The analysis of this indirect process lies at the very foundation of the moral sciences; the solution is assumed by political science as known, and is not contained in it. In politics, however, as in ethics, the external act, taken by itself, is often ambiguous; it must be construed, or interpreted, by its circumstances. The act itself, and the circumstances, are matters of observation, and by these its quality must be determined. The mental state of the persons principally concerned in it can never be known to us directly. The most direct guide to their internal thoughts and feelings is their own declarations respecting them; and these declarations cannot always be trusted. In fact, they are not unfrequently made with the express purpose of misleading.

To illustrate what has been said, let us take some well-known historical fact; for example, the execution of Charles the First. So much of this event as consists in outward acts—the imprisonment of the king, his trial and condemnation to death, and his decapitation upon a scaffold at Whitehall, on the 30th January, 1649, is vouched by undoubted testimony, and is as certain as that Herculaneum was destroyed by an eruption of Vesuvius, and Lisbon by an earthquake. But what were the reasons which prompted this act; what were the precise motives which induced Cromwell and the other leaders of the army to adopt this measure, can be known only by inference from their own conduct and demeanour, from the conduct of the

king, from their statements, and from the circumstances in which they were placed.⁽⁶⁶⁾

Now in the physical sciences there is nothing which, in strictness, resembles moral action. All the phenomena succeed one another according to invariable laws of sequence—the ideas of volition, freedom of action, moral responsibility, punishment, government, self-determined progress, and self-created improvement, are inapplicable to matter, and to the realm of outward nature. All physical phenomena, in their inception, connexion, and cessation, are the subjects of observation by means of the senses. There is no mental state, imperceptible by the senses, which gives a form and colour to the material observed appearances.

The nearest approach to an analogy with this peculiarity of the moral sciences is to be found in the names of certain material agents, which we suppose to exist, though we know them only in their effects—such as heat, light, and electricity; even life and matter properly belong to this class. Natural theology, likewise, so far as it is to be considered a physical science, is in this respect analogous in its methods of reasoning to the moral sciences; the observed phenomena serve to indicate the great Mind of the universe, and to expound its acts, as the circumstances of a human agent serve to interpret his conduct.

(66) 'Die Aufgabe des Geschichtschreibers ist die Darstellung des Geschehenen. . . . Das Geschehene aber ist nur zum Theil in der Sinnenwelt sichtbar, das Uebrige muss hinzu empfunden, geschlossen, errathen werden. Was davon erscheint, ist zerstreut, abgerissen, vereinzelt; was dies Stückwerk verbindet, das Einzelne in sein wahres Licht stellt, dem Ganzen Gestalt giebt, bleibt der unmittelbaren Beobachtung entrückt. Sie kann nur die einander begleitenden und auf einander folgenden Umstände wahrnehmen, nicht den innern ursächlichen Zusammenhang selbst, auf dem doch allein auch die innere Wahrheit beruht.'—Wilhelm v. Humboldt, *Ueber die Aufgabe des Geschichtschreibers, Gesammelte Werke*, vol. i. p. 1.

CHAPTER VI.

ON THE APPLICABILITY OF THE METHOD OF
EXPERIMENT TO POLITICS.

§ 1 IT has been shown in the preceding chapter, what are the facts upon which the science and practice of Politics are founded, and what are the means employed for their observation. We have learned that, however numerous, complex, and variable these facts may be, they lie within the range of simple observation, and admit of being determined with certainty. It is true that fraud, or concealment, or neglect, or inaccuracy of observation, may give rise to doubt and controversy about particular events, and if the extant evidence to a historical fact is defective, that defect can never be supplied: but all political facts lie within the sphere of our senses, and if due attention is paid to them at the time of their occurrence, they always admit of being observed. For so much of a political fact as consists in mental operations, which are necessarily concealed from our view, we can only, as in ethics, proceed by way of inference from outward and visible marks. This, indeed, is a source of obscurity not peculiar to politics, but common to all departments of knowledge which involve human action.

It is, however, in politics, as in physics: a part, and only a small part, of the process of investigation consists in the mere collection and registration of facts. All intelligent observation must be made with relation to some end; the observer has some ground for his preference, some criterion for discriminating between the facts to be noted, and the facts to be disregarded.⁽¹⁾ In general, he seeks to ascertain the connexion of certain facts, in

(1) That all observation ought to be directed by a theory is shown by M. Comte, *Cours de Phil. Pos.* tom. iv. p. 418-25, 665-6.

the way of cause and effect. Now, in attempting to solve a problem of political causation, we are in general presented with a large number of contemporary events, some of which are selected, according to the peculiar views of individuals, as the antecedents of a given phenomenon. If, for example, agricultural, manufacturing, or commercial distress prevails in any country, there will be different modes of accounting for it, according to the comparative intelligence and knowledge, the economical interests, or the political opinions and connexions of different persons. Some will trace it to one source, and some to another; much controversy and dissension will arise, and the question will only be set at rest by the succession of new and more pressing disputes on similar subjects.

Now if, for the purpose of determining doubtful questions of this sort, politics possessed some summary and decisive method, some means of searching out the concatenation of phenomena, and of discriminating between true and false causes, similar to that which several of the physical sciences derive from the use of EXPERIMENTATION,⁽²⁾ a powerful instrument of reasoning would be placed in the hands of the political inquirer.

Let us, therefore, consider what is the real use of experiments in the physical sciences, and how far this method of investigating truth is applicable to the sciences, of which man, and not matter, is the subject.

§ 2 Experiments in physics are of two sorts, the experiments of science and the experiments of art. The former have a philosophical; the latter, a practical purpose. The former are intended to establish truth, or to refute error: the latter are intended to ascertain, by actual trial, the working qualities of some tool, instrument, machine, or mechanical contrivance; the influence of some remedy on the human frame; the wholesome-

(2) On the subject of experiment in the physical sciences, see Playfair's *Dissertation in the Enc. Brit.* vol. i. p. 466, ed. 7: Herschel's *Discourse on the Study of Natural Philosophy*, § 67: Cuvier, *Règne Animal*, tom. i. p. 4-6; Comte, *Cours de Philosophie Positive*, tom. ii. p. 404-7; tom. iii. p. 28, 320, 333; Mill's *Logic*, vol. i. p. 441-4.

ness of some food for man or animal; the effects of some mode of cultivation upon plants; the strength of materials; the comparative speed of animals or ships; and the like.

Examples of the former class are the experiments of mechanics, chemistry, optics, and of the sciences of electricity, magnetism, and heat. The experiments of Archimedes on the lever, of Galileo on falling bodies, of Newton on light, of Franklin on the lightning, and of Lavoisier on combustion, are celebrated instances of this class.⁽³⁾ The latter class of experiments are the experiments of the useful arts; all those trials which inventors make when they seek to apply the principle of their invention in practice; when they confront their idea with realities, and seek to convert their speculative contrivance into a working machine. That many such ideas are formed which meet with no practical success, that the inventor often deludes himself with impracticable plans, or is wanting in mechanical skill to give effect to his own principle, is proved by the large number of patents for new inventions which lie barren in the hands of the patentee. Of the same nature are the experiments made by the agriculturist, the breeder of cattle, the planter, the gardener, for the sake of discovering what are the circumstances under which the objects of his care will thrive most, and yield the largest profit.

The former of these classes of experiments appears to correspond with the *experimenta lucifera*—the latter, with the *experimenta fructifera*, of Bacon.⁽⁴⁾ Scientific experiments imply a theoretical conclusion. They always prove something. No man makes a philosophical experiment (unless it be merely for the negative purpose of confutation), without inferring from it a law

(3) See Whewell, *Hist. of Ind. Sciences*, b. ix. c. 3; b. xi. c. 1.

(4) See *Nov. Org.* præfat. p. 156. lib. i. aph. 99, 121, lib. ii. aph. 36. ad fin.; also, the *Parascene ad Historiam Naturalem et Experimentalem*, vol. xi. p. 408. 'Artium experimenta' are mentioned in *Nov. Org.* i. 103.

In the treatise *De Augmentis*, v. 2, invention or discovery is divided into two branches—*experientia litterata*, and *interpretatio naturæ* (vol. viii. p. 264. 276). These nearly correspond to practical and scientific experiments, although the *experientia litterata* is not confined to the former class. Compare *Adv. of Learning*, vol. ii. p. 182.

of nature, more or less extensive. Hence they are called by Bacon, *lucifera*. Their very essence is to shed light upon something which was dark before; to make known something which was unknown before; to furnish a key to some hidden mystery of nature. A scientific experimenter is, of necessity, a theorist.⁽⁵⁾ He is not a mere observer, who may collect facts without perceiving their value, and may leave to others the task of building a theory out of the materials which he has collected; as Newton founded his theory of the world upon the data determined by Kepler. On the other hand, practical experiments—the *experimenta fructifera* of Bacon—are not intended to prove any scientific conclusion. They are merely intended to try the operation of the individual contrivance or machine, with a view to immediate profit or utility. They are made with no view to abstract or theoretic truth, though they may lead the philosophic bystander to scientific conclusions.

Bacon insists, with much emphasis, and in many passages of his philosophical writings, upon the superiority of *experimenta lucifera* to *experimenta fructifera*. He points out the former as the true road to the interpretation of nature; as never deceiving or disappointing⁽⁶⁾ the inquirer; and as leading to the discovery of causes and true axioms: whereas the latter are intended to subserve some merely useful object; and to yield a profit to the experimenter, not to enlarge the knowledge of mankind.⁽⁷⁾

(5) 'Une expérimentation quelconque est toujours destinée à découvrir, suivant quelles lois, chacune des influences déterminantes ou modificatrices d'un phénomène participe à son accomplissement.'—Comte, *Cours de Phil. Pos.* tom. iii. p. 321.

(6) 'Frustrantur,' *Nov. Org.* i. 99.

(7) See *Nov. Org.* i. 50, 70, 82, 83, 99, 121; *De Augm. Scient.* v. 2, vol. viii. p. 276. 'His lordship hath often in his mouth the two kinds of experiments, *experimenta fructifera* and *experimenta lucifera*, experiments of use and experiments of light: and he reporteth himself whether he were not a strange man that should think that light hath no use because it hath no matter.'—Dr. Rawley's preface to the *Sylva Sylvarum*, cited in Craik's *Bacon*, vol. iii. p. 58.

In order to prevent misapprehension, it may be desirable to show that Bacon's preference of *experimenta lucifera* over *fructifera* is quite consistent with his condemnation of a philosophy which bears no fruit, and is barren of practical results.

In *Nov. Org.* i. aph. 70, he says:—'Quod si etiam scientiam quandam

Bacon's exhortation to the investigator of nature, to make experiments for purposes of mere science, and not to aim at any immediate object of production or practice, is undoubtedly founded on a just appreciation of scientific method. Genuine

et dogmata ex experimentis moliantur, tamen semper fere studio præproprio et intempestivo deflectunt ad praxin: non tantum propter usum et fructum ejusmodi præceps, sed ut in opere aliquo novo,' &c. Afterwards he adds:—'Ex omnimodâ experientiâ, primum inventio causarum et axiomatum verorum elicienda est, et lucifera experimenta, non fructifera, querenda.' Again, in *Nov. Org.* i. 129, he says:—'Et tamen (ut verum omnino dicamus) quemadmodum luci magnam habemus gratiam, quod per eam vias inire, artes exercere, legere, nos invicem dignoscere possimus, et nihilominus ipsa visio lucis res præstantior est et pulchrior, quam multiplex ejus usus: ita certe ipsa contemplatio rerum, prout sunt, sine superstitione aut imposturâ, errore aut confusione, in seipsâ magis digna est, quam universus inventorum fructus.'

In the Preface to the *Novum Organum*, he enumerates the preference of fructiferous to lueiferous experiments among the obstacles to sound philosophical investigation. 'Neque illud imprimis omittendum est, quod omnia in experiendo industria statem ab initio opera quedam destinata præproprio et intempestivo studio captavit; fructifera (inquam) experimenta, non lucifera quæsivit' (vol. ix. p. 156). A similar remark occurs in the preface to the *Phænomena Universi*:—'Illud enim in experimentalibus omnia perdidit, quod homines etiam a principio fructifera experimenta, non lucifera, sectati sunt, atque ad opus aliquod magnificum ednecendum omnino incubuere, non ad pandenda oracula naturæ, quod opus operum est, et omnem potestatem in se complectitur' (vol. xi. p. 176). In the treatise *De Augmentis*, he insists on the same maxim:—'Atque illud semper in animo tenendum, quod perpetuo inculcamus, experimenta lueifera etiam adhuc magis quam fructifera ambienda esse' (lib. v. c. 2, vol. viii. p. 276). In the *Abecedarium naturæ*, he places *lucifera experimenta* in juxtaposition with *instantiæ crucis*.—Vol. xi. p. 220.

In another aphorism of the *Novum Organum*, speaking of the marks of a sound philosophy, he says:—'Inter signa nullum magis certum aut nobile est, quam quod ex fructibus. Fructus enim et opera inventa pro veritate philosophiarum velut sponsors et fidejussors sunt. . . . Quemadmodum in religione cavetur, ut fides ex operibus monstretur; idem etiam ad philosophiam optime traducitur, ut ex fructibus judicetur, et vana habeatur quæ sterilis sit.' (L. 73, and see vol. xi. p. 464.) Compare also the remarks at the end of Aph. 66, upon the barrenness of extreme abstractions. Bacon, however, explains clearly (in Aph. 81) what he means by the fruits which mark a sound philosophy. He lays it down that the ultimate aim of all sciences [*i. e.*, principally the physical sciences] is that 'human life should be enriched with new inventions and resources: 'Meta scientiarum vera et legitima non alia est, quam ut ditetur vita humana novis inventis et copüs.' He proceeds then to say, that men in general do not keep this exalted and general end in view; but aim at some object of personal gain, or at some particular invention. Instead of seeking to improve the 'massa scientiarum et artium,' the general aggregate of sciences and arts, they take from it only so much as will serve to give them profit or celebrity. Even if some man does follow science with a disinterested view, and merely for its own sake—yet he will be found rather to seek a variety of contemplations and doctrines, than to pursue

science, though it must admit ultimately of a practical application, ought to be cultivated without any practical view. But it would be a mistake to infer from Bacon's precept, that the one set of experiments are a substitute for the other; or that the

a severe and rigid inquiry after truth. Again, if a man, perhaps, is a severe investigator of truth, yet even he will be satisfied with determining the causes of things already known, without searching after new operations of matter, and a new light from axioms established by himself. Compare *De Augm. Scient.* lib. v. c. 2. 'Illud interim circa hujusmodi experimenta monemus; ut nemo animo conceidat, aut quasi confundatur, si experimenta quibus incumbit expectationi suæ non respondeant. Etenim quod succedit magis complacet, at quod non succedit sæpenumero non minus informat.'

These passages clearly explain Bacon's meaning in rejecting *fructifera experimenta*, and yet in saying that a philosophy is known by its fruits. By *fructifera experimenta* he understands experiments in the useful arts; experiments made with a view to immediate profit and utility. On the other hand, the aim of the philosopher is general truth; but truth not barren of results; truth leading to the enlargement of the power of man over external nature, and tending to the extension of the whole aggregate of the sciences and arts.

The following passages further illustrate his meaning in this respect. 'Tum vero de scientiarum ulteriore progressu spes bene fundabitur cum in historiam naturalem recipiuntur et aggregabuntur complura experimenta, quæ in se nullius sunt usûs sed ad inventionem causarum et axiomatum tantum faciunt; quæ nos lucifera experimenta, ad differentiam fructiferorum, appellare consuevimus.'—*Nov. Org.* i. 99. 'Itaque ipsissimæ res sunt in hoc genere veritas et utilitas; atque opera ipsa pluris facienda sunt, quatenus sunt veritatis pignora, quam propter vitæ commoda.'—*Ib.* i. 124.

'But this is that which will indeed dignify and exalt knowledge, if contemplation and action may be more nearly and straitly conjoined and united together than they have been. . . . Howbeit, I do not mean when I speak of use and action, that end before-mentioned of the applying of knowledge to lucre and profession; for I am not ignorant how much that diverteth and interrupteth the prosecution and advancement of knowledge. . . . Neither is my meaning, as was spoken by Socrates, to call philosophy down from heaven to converse upon the earth; that is, to leave natural philosophy aside, and to apply knowledge to manner and policy. But as both heaven and earth do conspire and contribute to the use and benefit of man, so the end ought to be, from both philosophies to separate and reject vain speculations, and whatsoever is empty and void, and to preserve and augment whatsoever is solid and fruitful: that knowledge may not be, as a courtesan, for pleasure and vanity only, or as a bondwoman, to acquire and gain to her master's use, but as a spouse, for generation, fruit, and comfort.'—*Adv. of Learning*, vol. ii. p. 51-2; comp. *De Augm.* vol. viii. p. 44.

In the *Phænomena Universi*, he points out, as one of the defects in the history of experiments, that it has been treated with a view to practice, not to philosophy: 'Historia experimentorum manca, tentata per partes, tractata negligenter, atque omnino in usum practicæ, non in usum philosophiæ.'—Vol. xi. p. 180.

In the *Parascæus ad Historiam Naturalem et Experimentalem*, he lays

experiments of science render the experiments of art superfluous. The objects at which they respectively aim are different. Each class of experiments has its own province, and its own utility; nor can the mechanist or engineer omit to bring his inventions to the test of a practical trial, because the philosopher may have instituted experiments upon matter in his laboratory.

§ 3 Wherever the method of scientific experiment is applicable in physics, it ought to be employed for the discovery and demonstration of truth, without reference to any artificial contrivance or practical result. But in order to determine how far the experimental method can be transferred from the physical sciences to politics, we must first learn what is the precise scope of scientific experiment, and what are the limits within which its application to physics is confined.

We have already remarked that observation is of two sorts, intentional and unintentional. Now scientific experiment is a peculiar sort of intentional observation. It is intentional obser-

it down that without a natural and experimental history, such as he indicates, the combined efforts of the entire human race can never produce a sound philosophy: 'Contra vero comparatâ et bene instructâ hujusmodi historia, additis experimentis auxiliariis et luciferis, quæ in ipso interpretationis curriculo occurrent, aut eruenda erunt; paucorum annorum opus futuram esse inquisitionem naturæ et scientiarum omnium,' (vol. xi. p. 408. Compare p. 179; vol. viii. p. 171; *Nov. Org.* i. 30;) and, again, in the same treatise:—'Atque in hoc plurimum est, ut qui partes scribendi historiam naturalem sibi posthac sumpserint, hoc perpetuo cogitent atque animo agitent, se non lectoris delectationi, non utilitati ipsi, quæ ex narrationibus in præsens capi possit, debere inservire, sed conquirere et comparare rerum copiam et varietatem, quæ veris axiomatibus conficiendis sufficiat' (ib. p. 412). 'Quamobrem toto (quod aiant) cœlo erraverit, qui intentioni nostræ satisfieri existimaverit, si artium experimenta colligantur, hujus rei solum gratiâ, ut hoc modo artes singula melius perficiantur. Licet enim et hoc non prorsus contemnamus in multis, tamen ea plane est mens nostra, ut omnium experimentorum mechanicorum rivuli in philosophiæ pelagus undequaque fluant.'—*Id.* p. 418.

Bishop Sprat, in his *History of the Royal Society*, adverts to Lord Bacon's distinction between experiments of light and experiments of fruit; by the latter, he understands those experiments which 'bring with them immediate gain and a present harvest.'—P. 245.

Bacon considers the Greek philosophy as characterized by its devotion to barren abstractions (*Nov. Org.* i. 71, 73; *Redarg. Philosoph.* vol. xi. p. 464); whereas Buffon represents the ancients as directing their scientific efforts more exclusively to useful objects, and less to the abstract pursuit of knowledge than the moderns: 'Premièrement (he says), ils cherchoient à être courts, et à ne mettre dans leurs ouvrages que les faits

vation, combined with a physical mastery or manipulation of the object observed.⁽⁸⁾ In all cases where we are able to dispose of an object according to our pleasure, to reduce it into our power, to render it subservient to our will, to handle it, to change its place, to isolate it or combine it with other substances, to vary its concomitant circumstances, to subject it to any physical treatment which our choice may dictate, the method of scientific experiment is applicable. Scientific experiment can be employed, whenever we can bring the subject of experimentation under the cognizance of our senses⁽⁹⁾ and within the grasp of our hands. According to the philosophical poet, the phenomena of physical causation are reproduced at the will of the experimenter:

Rise, at volition's call, in groups combined,
Amuse, delight, instruct, and serve mankind.

But where these conditions cannot be fulfilled, the method of experiment cannot be employed; and hence it is inapplicable to astronomy, which deals with the heavenly bodies;⁽¹⁰⁾ to

essentiels et utiles, parcequ'ils n'avaient pas comme nous la facilité de multiplier les livres, et de les grossir impunément. En second lieu, ils tournoient toutes les sciences du côté de l'utilité, et donnoient beaucoup moins que nous à la vaine curiosité; tout ce qui n'étoit pas intéressant pour la société, pour la santé, pour les arts, étoit négligé; ils rapportoient tout à l'homme moral, et ils ne croyoient pas que les choses qui n'avoient point d'usage, fussent dignes de l'occuper; un insecte inutile dont nos observateurs admirent les manœuvres, une herbe sans vertu dont nos botanistes observent les étamines, n'étoient pour eux qu'un insecte ou une herbe.'—*Manière de traiter l'Histoire Naturelle, Histoire Nat. Générale*, tom. i. p. 55.

(8) See Whewell, *Phil. of Ind. Sciences*, vol. ii. p. 500.

(9) Heat and electricity are considered to be perceived by the sense of touch.—See Gregory, *Conspexus Med. Theor.* § 146, 171.

(10) Bacon remarks, that experiment has no place in astronomy:—'Quinetiam ubi non datur homini facultas operandi, sed tantum sciendi, ut in cœlestibus (neque enim conceditur homini operari in cœlestia, aut ea immutare aut transformare); tamen inquisitio facti ipsius,' &c.—*Nov. Org.* ii. 5.

Kæmtz makes the same remark with respect to meteorology:—'The number of observations on the modifications of the atmosphere is doubtless considerable; but they are, at the same time, observations in the most restricted sense of that word. We observe the phenomenon presented to us, but we cannot modify and vary it at pleasure; we cannot even reproduce it at will. In a word, we cannot have recourse to experiment. Our means and our powers are much too limited to give us the power of producing the least changes in the atmosphere.'—*Course of Meteorology* (translated by Walker), p. 2.

meteorology, which deals with the atmosphere ; to geography and geology, which deal with the surface of the earth. The subjects of these sciences are so vast, that our feeble physical powers cannot grasp them ; and in the case of the two former, they are likewise so distant and inaccessible, as to be only within the scope of our sight.

On the other hand, in mechanics, where bodies of a manageable size can be balanced or set in movement ; in chemistry, where gases and small specimens of earths, minerals, salts, &c., can be disposed of by the manipulator at his discretion ; in optics, where the effect of light can be tried upon refracting and reflecting substances of moderate size ; in acoustics, where the phenomena of sound can be observed within a limited area ; in electricity, magnetism, and thermology, where a similar mastery over the substances under investigation is possible, scientific experiment can be employed.⁽¹¹⁾

In the field of physics, therefore, scientific experiment is only applicable to those subjects which man can, as it were, reduce to servitude—of which, in legal phraseology, he can have scisin. Where great spaces and magnitudes are in question, which the human arms cannot enclose, and which we can only measure by a repetition of successive manual operations, or by methods of indirect calculation, there scientific experiment is powerless.

§ 4 Scientific experiment, again, is not only inapplicable to those physical sciences which deal with remote and vast objects, but it is also inapplicable to man.⁽¹²⁾ It is inapplicable to man as a sentient, and also as an intellectual and moral being ; to man, as the subject of physiological and medical, as well as of metaphysical, ethical, and political science. It is, however, inapplicable to man, not because he lies beyond the

(11) See Comte, *Phil. Pos.* tom. ii. p. 405, who remarks that experiment is peculiarly applicable to those sciences which the French writers comprehend under the specific name of *physique*.

(12) As to the inapplicability of experiment to the moral sciences, see Mr. Mill's *Essays on some Unsettled Questions of Pol. Economy*, essay v. p. 146.

reach of our powers, but because we abstain voluntarily from exercising them upon him for this purpose; not because he is inaccessible to our experiments, but because they could not be applied to him without destroying his life, or wounding his sensibility, or at least subjecting him to annoyance and restraint. In some cases, indeed, a man may voluntarily submit himself to scientific experiments: thus, he may expose himself to great heat or great cold, in order to determine what extremes of temperature the human body can bear;⁽¹³⁾ he may take drugs, or particular kinds of food, in order to try their effect on his body, and the like.⁽¹⁴⁾ Physiological experiments may likewise be tried, within certain limits, upon the living human body, when some of its members or organs have been peculiarly affected by disease or wound. These experiments, however, must be subject to the condition, that they do not inflict serious pain on the patient, or retard his cure.⁽¹⁵⁾

Scientific experiments of this kind may be tried without limit upon the vegetable kingdom; inasmuch as plants, though organized, are insentient. Many scientific experiments can likewise be tried upon animals, without intentionally subjecting them to pain, or abridging their life. Thus, we can fix the temperature in which they live; we can regulate their food and habitation; we can select the individuals for the reproduction of the species; and we can thus ascertain the conditions which are favourable or unfavourable to the life or vigour of the animal. Sometimes, however, scientific experimentation upon animals is carried beyond these bounds. Of late years, in particular, *vivisection*, or anatomical investigation of the living subject, has often been practised upon some of the smaller mammalia, as well as

(13) See Carpenter's *Comp. and Gen. Phys.* § 174.

(14) See the remarks in Mr. Mill's *Logic*, vol. i. p. 539.

(15) See an example of experiments of this sort in Dr. Carpenter's *Human Physiology*, § 366. Speaking of the investigation of the birth of animals, Bacon says:—'Circa animalia perfecta et terrestria, per exsectiones fœtum ex utero, minus humanum esset ista inquirere; nisi forte per occasiones abortuum, et venationum, et similibus.'—*Nov. Org.* ii. aph. 41.

other animals of an inferior class ;⁽¹⁶⁾ and important physiological facts have been established by these means. And, indeed, some of the ancient physicians of the Dogmatic sect were permitted by the kings to open the living bodies of convicted criminals : a practice which was defended against the objections of the Empiric sect, upon the ground that it is reasonable for a few criminals to suffer for the benefit of many innocent men.⁽¹⁷⁾ In modern

(16) On the vivisection of swine and dogs by the anatomists of the sixteenth century, see Sprengel, *Gesch. der Arzneikunde*, vol. iii. p. 59. On experiments with tadpoles, see Carpenter's *Human Physiology*, § 32 ; with birds, *ib.* § 35 ; and by the removal of the cerebellum in animals, § 459. The colouring of the bones of animals by feeding them on madder is also a species of experiment, *ib.* § 202. He remarks (*Principles of Gen. and Comp. Physiology*, § 5), that experiments on the lower classes of animals often suffice for physiological purposes.

M. Comte (*ib.* tom. ii. p. 405 ; tom. iii. p. 325) disapproves of vivisection, partly on account of its barrenness of results, and partly on account of its moral tendency.

In *Cymbeline*, the Queen asks Cornelius for some poisonous drugs which she had commanded ; and in reply to his question as to the use which she intends to make of them, she says—

‘ I wonder, doctor,
Thou ask'st me such a question. Have I not been
Thy pupil long ? Hast thou not learn'd me how
To make perfumes ? distil ? preserve ? yea, so,
That our great king himself doth woo me oft
For my confections ? Having thus far proceeded,
(Unless thou think'st me devilish,) is't not meet
That I did amplify my judgment in
Other conclusions ? I will try the forces
Of these thy compounds on such creatures as
We count not worth the hanging (but none human),
To try the vigour of them, and apply
Allayments to their act ; and by them gather
Their several virtues, and effects.

‘ Cor.— Your highness
Shall from this practice but make hard your heart :
Besides, the seeing these effects will be
Both noisome and infectious.’—*Act i. sc. 6.*

‘ To try conclusions,’ in the language of Shakspeare, is to try experiments—

‘ Like the famous ape,
To try conclusions, in the basket creep,
And break your own neck down.’—*Hamlet*, act iii. sc. 4.

(17) See Celsus *de Med.* præf. p. 7 ; and see the objections in p. 11. ‘ Corpora nostra non novimus : qui sint situs partium, quam vim quæque pars habeat, ignoramus. Itaque medici ipsi, quorum intererat ea nosse, aperuerunt, ut viderentur. Nec eo tamen aiunt empirici notiora esse illa :

times, likewise, the practice of inoculating criminals with the matter of the plague, for the purpose of throwing light upon contagion, has been recommended, if not practised; and it appears that the French government used, in the sixteenth century, to furnish annually to the physicians of Montpellier a living criminal for dissection.⁽¹⁸⁾

Vivisection, however, even if it could be practised without scruple upon man and the higher mammalia, counteracts its own object, inasmuch as it rapidly destroys life. That which is vivisection in the beginning, soon becomes the dissection of a dead subject:

Like following life through creatures you dissect,
You lose it in the moment you detect.⁽¹⁹⁾

This is the case in proportion as the animal is of a higher organization. Even while life remains, the action of the organs, lacerated, divided, or laid bare by the scalpel, is not in a natural or normal state, and therefore throws little light upon the vital processes. Accordingly, as Cuvier has remarked, natural history is almost exclusively a science of mere observation.⁽²⁰⁾

A story told by Herodotus, though manifestly fabulous, may serve to show that the notion of scientific experiments practised upon the human race is of great antiquity. He relates

quia possit fieri, ut patefacta et detecta mutantur. Sed eequid nos eodem modo rerum naturas persequere, aperire, dividere possumus, ut videamus, terra penitusne defixa sit, et quasi radicibus suis hæreat, an media pendat?—*Cic. Acad.* ii. 39.

The dissection alluded to by Cicero in the preceding passage appears to be *vivisection*. The objection of the Empiric school is the same as that reported in Celsus. In the latter part of the extract, Cicero points out that astronomy is not an experimental science.

(18) See Southey's *Doctor*, c. 122, vol. iv. p. 210, who states this fact on the authority of a French writer named Bouchet. If the writer referred to is Guillaume Bouchet, I have not been able to verify the fact mentioned by Southey. His *Serées* contain two stories relating to vivisection (one of an experimental operation for the stone, cited from Monstrelet, in which the criminal recovered), but nothing is there said as to the practice of furnishing criminals to the physicians of Montpellier.—*Serée* 14, tom. ii. p. 63-5: ed. Rouen, 1634-6.

(19) Pope, *Moral Essays*, ess. i. v. 29.

(20) See, on this subject, the remarks of Cuvier (*Règne Animal*, tom. i. p. 4), which are well expanded by Dr. Carpenter, *Comp. and Gen. Phys.* § 4; and compare § 222.

that Psammitichus, king of Egypt (who reigned in the seventh century, B.C.), being desirous of ascertaining which was the most ancient race of men, employed the following contrivance. He took two infants, and gave them to a shepherd to bring up on goat's milk, in a solitary hut; charging him never to allow them to hear any word spoken. At the end of two years, these children, on receiving the customary visit of the shepherd, ran to him, stretching out their hands, and uttering the word *bekos*. This was reported to Psammitichus, who, upon inquiry, ascertained that *bekos* was the Phrygian name for *bread*; whence he inferred that the Phrygians were more ancient than the Egyptians.⁽²¹⁾ Cicero likewise, in depreciating the character of the nations of Asia Minor, adverts to a proverbial saying, that if any experiment dangerous to life is to be tried on any man, a Carian is to be selected for the purpose.⁽²²⁾

The method of scientific experiment, though it can be applied, in certain cases, to man considered physiologically, cannot be applied to political society.⁽²³⁾ We cannot treat the body politic

(21) ii. c. 2. Herodotus adds that the Greeks corrupted this story, by representing Psammitichus to have placed the children under the care of women whose tongues he had cut out. This was a circumstance of cruelty not necessary for the experiment, which the native version of the story did not recognise, but which the Greek residents added, in order to make it more complete.

(22) *Pro Flacco*, c. 27. 'Nonne hoc vestra voce vulgatum est, si quid cum periculo experiri velis, in Care id potissimum esse faciendum?' The proverb, referred to by early Greek writers, is *ἐν Καρί τὸν κίνδυνον* (see Zenob. *Prov.* iii. 59, with Schneidewin's note). It is to be observed that many of the Athenian slaves were Carians. Carion is the name of the slave in the *Plutus* of Aristophanes.

The maxim, 'Fiat experimentum in corpore vili,' appears to mean, that articles of value are not to be sacrificed for purposes of mere experimentalizing, but should be turned to some profitable account.

Celsus states that novel forms of disease had appeared from time to time, for which the physicians had devised no remedy: 'Quos ideo (he continues) nihil tentasse iudico, quia nemo in *splendida personâ* periclitari conjecturâ suâ voluerit; ne occidisse, nisi servasset, videretur. Veri tamen simile est, potuisse aliquod excogitare, detractâ tali verecundiâ, et fortasse responsurum fuisse id, quod aliquis esset expertus.'—*De Med.* pref. p. 13.

Alexander the Great was severely wounded with a barbed arrow in an attack on the city of the Oxydrææ. 'Critobulus, inter medicos artis eximius, sed in tanto periculo territus, manus admoveere metuebat, ne in ipsius caput parum prosperæ curationis recideret eventus.'—Curt. ix. 6.

(23) C. Comte (*Traité de Législation*, liv. i. c. 1) observes, that in the sciences of legislation and morality there are not the same facilities of

as a *corpus vile*—and vary its circumstances at our pleasure, for the sake only of ascertaining abstract truth. We cannot do in politics what the experimenter does in chemistry: we cannot try how the substance is affected by change of temperature, by burning, by dissolution in liquids, by combination with other chemical agents, and the like. We cannot take a portion of the community in our hand, as the king of Brobdignag took Gulliver, view it in different aspects, and place it in different positions, in order to solve social problems, and satisfy our speculative curiosity.

§ 5 Nevertheless, it would be an error to suppose that political science would gain any addition to its stock of positive information by the adoption of the method of experiment, or that the facts upon which it is founded could be better or more fully ascertained by experimentation, than by the method of simple observation. The physical philosopher is compelled to interrogate nature by experiments, because she is mute. But man, the subject of politics, can speak: he can declare his feelings spontaneously; or he can answer interrogations. Hence the experiments of physical science are, after all, a feeble and rude contrivance, compared with the methods of investigation in politics. Scientific experiment is an imperfect substitute for that information which a man can give respecting his experience; respecting his internal feelings and changes of consciousness, and the events which have passed within the range of his senses. The information which experiment can extract from insentient masses of matter, or from gases and fluids, is scanty and uninteresting as compared with the answers of human intelligence. The

investigation as in the physical sciences. The political philosopher cannot treat a nation as a chemist treats matter. He can observe the facts recorded by history, or those which he has himself witnessed; but he cannot make experiments himself, or repeat the experiments of others. Governments, indeed, act upon nations experimentally, but their experiments are always made in the same direction (*F*), and with the view of arriving at a result which is not always avowed. They do not afford to those who are not convinced of the rectitude of their processes, the facility of instituting contrary experiments (tom. i. p. 13). See likewise, A. Comte (*Cours de Phil. Pos.* tom. iv. p. 428), who shows that social science cannot use direct experiment.

responses of one oracle are brief and meagre, as compared with the copious and godlike accents which proceed from the other shrine.

If, on the other hand, every portion of matter was animated; if, according to the ancient pagan faith, every tree had its dryad, every stream its naiad; if the lightning, the winds, the element of fire, and all the great powers of nature, were each subject to their appropriate deity; or if, as in the European mythology of more recent times, gnomes and fairies and elves presided over external objects, we might obtain from lifeless matter information concerning its attributes and qualities. If we could appeal to the supernatural beings described by Pope, and by evocations and magic formulas compel them to reveal the mysteries of nature, experiment might be discarded as superfluous:

Some in the fields of purest ether play,
And bask and whiten in the blaze of day.
Some, guide the course of wandering orbs on high,
Or roll the planets through the boundless sky.
Some, less refined, beneath the moon's pale light,
Pursue the stars that shoot across the night;
Or suck the mists in grosser air below;
Or dip their pinions in the painted bow;
Or brew fierce tempests on the wintry main;
Or o'er the glebe distil the kindly rain.

With such informants as these upon the laws of physical phenomena, we should despise the tardy process of experimental investigation, and, as in human affairs, should resort to the testimony of percipient witnesses.

The different advantages which are afforded to the observer by the voluntary communications of intelligence, and by experiments upon unintelligent matter, may be illustrated by a comparison of human and veterinary medicine. Buffon recommends the more careful cultivation of veterinary medicine, as tending to throw light upon human medicine, by the facilities for scientific study which it presents; among which he enumerates the unrestricted power of making experiments, and trying new remedies.⁽²⁴⁾ Now the veterinary art has been cultivated with

(24) 'La médecine que les anciens ont appelée médecine vétérinaire, n'est presque connue que de nom: je suis persuadé que si quelque médecin

much assiduity and skill since the time of Buffon, and yet it has thrown little or no light upon human pathology and therapeutics. It has been found that the explanations which the human patient affords to the physician, respecting his state and sensations, are far more instructive than the experiments which the veterinary practitioner may make upon a dumb, irrational animal. In the treatment of infants, the physician is subject to a similar disadvantage, without the corresponding advantage of a facility of making experiments on his patient.

Wherever there is intelligence there is sensibility; and wherever there is sensibility, experiment, as such, mere philosophical manipulation for the sake of determining truth, is inapplicable. Each method excludes the other; but the information derived from an intelligent subject is more instructive than that attainable by the method of experiment, acting upon insentient matter.

A physical philosopher making researches into the properties of matter, compared with a political philosopher inquiring into the nature of governments and laws, and the tendencies of human institutions, is like a traveller in a foreign country who can speak the language of the natives, compared with a traveller who is unable to hold converse with them.

If political society were a vast machine, or inert material body—if it was really a great Leviathan constructed of men, after the manner of the figure delineated in the frontispiece to the treatise of Hobbes—and if the personality of the individual

tournoit ses vues de ce côté-là, et faisoit de cette étude son principal objet, il en seroit bientôt dédommagé par d'amples succès; que non-seulement il s'enricheroit, mais même qu'au lieu de se dégrader il s'illustreroit beaucoup, et cette médecine ne seroit pas si conjecturale et si difficile que l'autre: la nourriture, les mœurs, l'influence du sentiment, toutes les causes, en un mot, étant plus simples dans l'animal que dans l'homme, les maladies doivent aussi être moins compliquées, et par conséquent plus faciles à juger et à traiter avec succès; sans compter la liberté qu'on auroit toute entière de faire des expériences, de tenter de nouveaux remèdes, et de pouvoir arriver sans crainte et sans reproche à une grande étendue de connoissances en ce genre, dont on pourroit même par analogie tirer des inductions utiles à l'art de guérir les hommes.—Buffon, *Hist. Nat. Quad.* tom. i. p. 96: ed. 1780.

man was merged and lost in the composite state—then it might be convenient to resort to the method of scientific experiment in politics. But as long as men, though members of a state, retain their personal identity and individual consciousness; so long as they are able to note and describe the subjects of their intuitions and sensations, so long will scientific experiment be powerless, for purposes of information, in politics. It is only in the absence of such informants that the method of scientific experiment ought to be employed. Wherever this mode of exploring natural objects is applicable, it ought to be applied. In proportion as the subjects of any physical science can be brought under the close scrutiny of all our senses, and as, consequently, the method of experiment is applicable to it, our knowledge of it will be full and satisfactory.⁽²⁵⁾ Nevertheless, as we shall show in a future chapter,⁽²⁶⁾ the only advantages of the method of experiment which are peculiar to physics, and which cannot be imitated in political reasoning, are *negative*. They consist, not in the ascertainment of positive facts, but in the exclusion of concurrent phenomena. Experiment presents the elements of a problem, all enclosed within a precise line of demarcation; and hence it creates a definiteness and exactitude unattainable in politics. This advantage of the experimental method, however, consists, not in what it includes, but in what it excludes; not in what it establishes, but in what it guards against.

§ 6 Although the facts within the province of politics are

(25) M. Comte points out a philosophic law, on the subject of observation, which he considers very important, and which he was the first to remark. This law is, that in proportion as physical phenomena become more complicated, they are, at the same time, susceptible by their nature of more extensive and more varied means of investigation (*Cours de Phil. Pos.* tom. ii. p. 18, 403). Does not this law, however, imply an inversion of cause and effect? Instead of saying that our means of observation increase as the phenomena become more complicated, would it not be more correct to say that the phenomena become more complicated as our means of observation increase? The phenomena of astronomy are simple, because we can only observe them with the one sense of sight; but if we could examine the objects on the surface of the planets or the moon with our other senses, the phenomena would immediately become more complex.

(26) Below, ch. ix. § 19.

all open to the observation of our senses, yet (as was remarked in the preceding chapter)⁽²⁷⁾ there is a constant danger of their being misreported for interested purposes. The whole field of practical politics is beset with this risk ; attempts to deceive the legislative and executive authorities of a country by incorrect information, for an interested purpose, are made at every turn. There is constantly a new crop of false facts, designed to mislead the persons who have conduct of the government. But the method of experiment, even if it were applicable to politics, would afford no protection against false facts of this class, inasmuch as they arise, not from any natural difficulty of ascertaining the truth inherent in the subject, but from an unwillingness to report it, or rather from a desire to misreport it.

The reluctance of persons to disclose facts, when the disclosure would bring calamity on themselves or their friends, has induced governments, in cases where the knowledge of these facts was, or seemed to be, important, to have recourse to torture for the purpose of extracting the truth. Torture, in practical politics, may be considered as analogous to experiment in physics; it is an artificial process for exploring the truth. In the one case, means are used for interrogating an insentient object, which cannot speak; in the other case, means are used for interrogating an intelligent agent, who can, but will not speak. Here, however, the analogy stops. For the method of scientific experiment brings out true results; whereas the torture of a man, if it succeeds in compelling him to speak, only compels him to say *something*; whether what he says be true or false is uncertain.⁽²⁸⁾

(27) Above, ch. v. § 13.

(28) Concerning Philotas, who confessed certain designs against Alexander, Quintus Curtius remarks as follows:—'Philotas, verone an mendacio liberare se a cruciatu voluerit, anceps conjectura est, quoniam et vera confessis, et falsa dicentibus, idem doloris finis ostenditur.'—vi. c. 11.

'Questiones nobis servorum ac tormenta accusator minitatur: in quibus quamquam nihil periculi suspicamur, tamen illa tormenta gubernat dolor, regit quesitor, flectit libido, corrumpit spes, infirmat metus; ut in tot rerum angustiis nihil veritati loci relinquatur.'—Cicero, *pro Sulla*, c. 28.

'Questioni fidem non semper, nec tamen nunquam habendam, constitutionibus declaratur; etenim res est fragilis, et periculosa, et quæ veritatem fallat. Nam plerique patientiâ sive duriâ tormentorum ita tormenta

§ 7 There is another peculiarity in the essence of political society, as compared with inert matter, which renders the method of scientific experiment unnecessary. With certain exceptions, such as the successive changes produced by growth, as well as by disease, in plants and animals, nature does not shift her attitude, and put herself in new forms and combinations spontaneously. Physical phenomena follow a constant law of sequence, which knows no exception, and compels its subjects to a blind, passive, and unchanging obedience.⁽²⁹⁾ Men in political society, on the other hand, are perpetually changing their position, and placing themselves in varied relations. Their spontaneous acts

contemnunt, ut exprimi eis veritas nullo modo possit; alii tantâ sunt impatientiâ, ut quodvis mentiri, quam pati tormenta, velint; ita fit ut etiam vario modo fateantur, et non tantum se, verum etiam alios criminentur.—*Dig.* xlviii. tit. 18. n. i. § 23, from Ulpian *de Officio Proconsulis*. See also Augustin, *Civ. Dei*, xix. 6.

Concerning the fallibility of torture, see Beccaria, c. 16; Paley, *Moral and Pol. Phil.* b. vi. c. 9; Manzoni, *Colonna Infame*. Speaking of the Roman law respecting torture, Manzoni says:—'Bisogna rammentarsi che quella legge era fatta in origine per gli schiavi, i quali, nell' abiezione e nelle perversità del gentilesimo, poterono esser considerati come cose e non persone, e sui quali si credeva quindi lecito qualunque esperimento, a segno che si tormentavano per iscoprire i delitti degli altri.'—p. 115.

Horace describes wine as analogous to torture, because it extracts from men their secret thoughts, and induces them to divulge the truth:

'Tu lene tormentum ingenio admoves

Plerumque duro: tu sapientium,' &c.

Carm. iii. 21, 13.

'Commissumque teges et vino tortus et irâ.'

Ep. i. 18. 38.

'Reges dicuntur multis urgere culullis,

Et torquere mero, quem perspexisse laborant

An sit amicitia dignus.'

Art. Poet. 434.

Lord Bacon thus refers to these expressions, in his treatise *De Augmentis*, lib. viii:—'Quare poeta perturbationes hujusmodi non inscite appellat torturas, quod ab iis secreta sua prodere homines compellantur.'—*Vol.* ix. p. 42.

Evandrus *ap. Diogenian.* (*Prov.* vii. 28) states that the Persians used intoxication, not torture, as a means of investigation.

The influence of wine in disclosing the thoughts has been often pointed out. See Alcæus, fr. 44; ed. Schneidewin, cf. fr. 47; *Theognis*, v. 500; and the proverb οἶνος καὶ ἀλήθεια (in vino veritas), in Plutarch, *Artax.* c. 15; *Diogenian.* vii. 28.

(29) See Mr. Austin's explanation of the analogy between political laws, or laws proper, and those metaphorical laws which are called laws of nature.—*Province of Jurisprudence determined*, p. 186.

serve as experiments, and leave us merely the task of observing the variations which they have themselves, of their own accord, brought about.⁽³⁰⁾

§ 8 It thus appears that the method of scientific experiment is not applicable to the subject-matter of political science, and indeed is not needed for determining the facts about which it is conversant. But although there can be no resort, in political science, to this method, for the purpose of ascertaining abstract truth, yet, in one class of cases, an approximation to it is practicable.

This happens, when certain parts of the political system have been modified by extraordinary events or influences; and a comparison is instituted between their normal or natural, and abnormal or altered, state, all other things remaining the same, or being unaffected by the cause in question. It has been remarked that, although physiology only admits partially of scientific experiments, their absence is in some degree supplied by the observation of morbid states of the organs; inasmuch as the change thus produced naturally in one organ, while the other organs remain unaffected, performs the part of an artificial experiment. For an artificial experiment isolates the phenomenon which is the subject of experimentation, and exposes it to certain selected influences, the surrounding medium remaining unchanged.⁽³¹⁾ Similarly, in politics, the introduction of some new and extraordinary influence into the society—such as a

(30) Bacon compares the influence of passion, in eliciting the inward thoughts, with the operations of art upon nature, which are in the nature of experiments. 'Quemadmodum enim in civilibus ingenium cujusque, et occultus animi affectuumque sensus, melius elicitur, cum quis in perturbatione ponitur, quam alias; simili modo, et occulta nature magis se produnt per vexationes artium, quam cum cursu suo meant.'—*Nov. Org.* i. 98. Compare the *Descriptio Globi Intellectualis*, where he calls arts 'nature vincula,' and says, 'denique natura ab arte et ministerio humano constringitur, et fingitur, et plane transfertur, et tanquam novatur, ut in artificialibus.'—Vol. xi. p. 5.

(31) See Comte (*Phil. Pos.* tom. iii. p. 333), with the remarks of Mr. Mill (*Logic*, vol. i. p. 538). A similar observation is made by Dr. Carpenter:—'Certain diseased conditions (he says) occasionally lead to disclosure of the intimate structure of parts, much more complete than that effected by the knife and microscope of the anatomist.'—*Comp. and Gen. Phys.* p. 353.

famine, a commercial crisis, an insurrection, or an invasion—may bring about sudden changes in certain institutions, or certain social states, while other parts of the political system are not directly affected; and the comparison of these with the normal and natural state may show the true relations of many phenomena, which would not otherwise have been perceived, and thus throw a strong light upon many trains of political causation.⁽³²⁾ The Irish potato-famine of the years 1845-9 may be adduced as a striking illustration of the manner in which an extraordinary influence, operating upon the body politic, may serve as an *experimentum luciferum*. The influence of this terrible calamity laid bare the evils in the state of the poorer classes in Ireland, and disclosed all the secret springs of her social economy, in as great a degree as could have been done by any artificial experiment, deliberately contrived for the mere purpose of discovering the truth.

It may be added, that extraordinary events of this sort may likewise serve as practical experiments, though they are not intended for that purpose. National calamities try the strength of laws and institutions, as weight tries the strength of a beam or of a bridge, or as a disease tries the strength of a man's constitution. Nothing, says the mechanical aphorism, is stronger than its weakest point; for, the strain being uniform, wherever there is a defect of resistance, the support cracks. A famine, or a commercial crisis, searches out the weak points of a nation, and is sure to find them. It has an elective affinity with the rotten parts of the social fabric, and dissolves them by the combination.⁽³³⁾

The study of *monstrosities*, or *malformations*, in the animal and vegetable kingdoms, has likewise been recommended as a means of tracing the laws of organic structure.⁽³⁴⁾ Something similar

(32) See Comte, *ib.* tom. iv. p. 430-5.

(33) Εὐρήσει τὰ σταθὰ, ὃ ἄνθρωπος Ἀθηναῖος, τῶν ἐκείνου πραγμάτων αὐτὸς ὁ πόλεμος, ὃν ἐπιχειρῶμεν.—Demosth. *Philipp.* i. p. 52. Multa quæ nunc ex intervallo non apparent, bellum aperiet.—Livy, xxviii. 44.

(34) See Carpenter's *Comp. and Gen. Phys.* § 205-6. Comte, *ib.* tom. iii. p. 340. The Aztec monarchs kept a living museum of human monsters.

to this may be done in the comparative anatomy of nations. Political institutions of an unusual and extraordinary character (which may be regarded as analogous to monstrosities in the organized world) may serve to throw a light upon the corresponding institution in its ordinary form, and thus, to a certain extent, discharge the function of a scientific experiment.

§ 9 But although scientific experiments are inapplicable to politics, practical experiments, the *experimenta fructifera* of Bacon, fall within its province, and are perpetually employed by the politician for their own appropriate and special purpose.

A government is, by the nature of its action, constantly trying experiments upon the community. All new measures, all laws enacted for the first time, are in the nature of experiments. They are not, indeed, scientific experiments; but they are experiments made for a practical purpose, and they are regarded merely as provisional and tentative, until experience has proved their fitness, and they are confirmed by the proof of practical success. Being tried, not *in corpore vili*, but upon the lives and fortunes of the people, the conduct of the experiment must be regulated by the nature of the subject upon which it is made. Hence, the progress of such experiments is carefully watched by the legislature; while the executive authorities proceed cautiously and gently with a new law, feeling their way as they advance, and exercising their discretion as to its more rapid or tardy advancement, either generally, or in particular districts. It is by trying a new law on a people, as the maker of new apparel fits it on the body, and by enlarging here and diminishing there where it does not suit the shape, that the legislature gradually adapts its work to the wants and feelings of the community. This is an experimental process, for the purpose, not of ascertaining a general truth, but of improving the institution, and of giving it the form best suited to the circumstances of the nation.

dwarfs, &c., among the various collections of curiosities attached to their palace. Prescott's *History of the Conquest of Mexico*, b. 4. ch. i. But they were considered as a mere appendage to the royal state, and, as may be supposed, had no scientific purpose.

All legislative acts are so far experimental, that they can always be repealed or altered; but a temporary law is avowedly an experiment, and its expiration at a fixed period is intended to ensure the reconsideration of the subject, with the knowledge of its actual operation. A temporary law or treaty may be compared with taking a house, or farm, or servant, or horse, on trial. In such a case, there is an express understanding that the person who makes the provisional engagement is to be at liberty to put an end to it at the expiration of the term, if he is dissatisfied. Local as well as temporary statutes have likewise an experimental character. They are laws on a small scale, applied only to places which desire a certain measure, and are manifestly in need of it. The experiment is tried within narrow limits of space, and its event is watched before the area of its operation is enlarged.

§ 10 In like manner, practical experiments upon education may be tried, in the management of schools and other places of instruction. Different systems of teaching may be tried, and their results compared, so as to determine, by their success, which is preferable. So the effects of different systems of military or naval discipline may be tried in regiments or ships of war; and moral experiments upon the government of men may be thus made, as physical experiments may be made in the use of artillery, or military movements. In cases of this sort, the experimenter is also the ruler, and guides his practice by watching the results of his own measure.

A pilot steering a ship along an unknown course, or through a dangerous channel, may proceed by constantly hauling up the lead, and ascertaining the depth. His whole progress is a series of experimental advances, each corrected after a time by a fresh observation. Travellers in an unknown country, and to a certain extent even generals in a campaign, direct their movements by this method.

In literary composition likewise, and in the works of the fine arts, the author proceeds by way of experiment. He tries an outline or sketch of his subject, which he alters until it satisfies his judgment. He then elaborates the several parts by suc

cessive touches—erasing, amending, and adding as he proceeds. Each successive effort of his invention is tentative; it is an experiment of his imagination, upon which his taste is to decide. The poet, the painter, and the sculptor, equally follow this mode in their respective productions; each regards the first crude results of his creative faculty as provisional, until they have received the deliberate approbation of his critical sense.

A close analogy is likewise perceptible between the experiments of practical medicine and those of practical politics. The physician often proceeds tentatively. He prescribes a certain regimen and course of medicine, and watches its effects, uncertain of the result. He feels his way as he proceeds, each successive step in the treatment indicating the next. In obscure cases, medical treatment can be little better than *mera palpatio*. But by a cautious observance of this method, strong and decisive remedies may be safely administered; and a healing virtue may be extracted even from poisons, by their dexterous exhibition in small and appropriate quantities. The physician is often compelled to proceed by the method of gradual approach: he attacks a disease as an engineer attacks a fortress.⁽³⁵⁾

One of the leading sects among the classical physicians—the Empirici—rejected all abstract reasoning upon medicine, even to the study of physiology, and relied exclusively upon the experiments made by former physicians in the treatment of diseases. Those modes of treatment which had been successful were good, and those which had failed were bad. They recognised no other standard of medical practice, and no other source of medical science.⁽³⁶⁾ The Empirici, therefore, founded their

(35) 'Alterum illud ignorari non oportet; quod non omnibus ægris eadem auxilia conveniunt. Ex quo incidit, ut alia atque alia summi auctores, quasi sola, venditaverint, prout cuique cesserant. Oportet itaque, ubi aliquid non respondet, non tanti putare auctorem, quanti ægrum, et experiri aliud atque aliud. Sic tamen, ut in acutis morbis cito mutetur, quod nihil prodest; in longis (quos tempus, ut facit, sic etiam solvit), non statim condemnetur, si quid non statim profuit; minus vero removeatur, si quid paulum saltem juvat, quia profectus tempore expletur.'—Celsus de *Medicind*, iii. 1, cf. i. præf. 'Est enim hæc ars conjecturalis, neque respondet ei plerumque non solum conjectura, sed etiam experientia.'

(36) See Celsus de *Med.* præf. Dr. Gregory, in the introduction to

doctrine exclusively upon the *experimenta fructifera* of their predecessors, converting them into *experimenta lucifera*, and making them serve as guides. All medical practice must be founded, in part, upon reasoning of this nature; and the error of the method employed by the Empirici consisted, not in watching and recording the effects of certain plans of treatment, but in confining themselves to the results of these observations, and in excluding from their system the assistance to be derived from anatomy and physiology, and even pathology. In this respect, they correspond exactly with those political reasoners who assume the distinctive appellation of 'practical men'—that is to say, they argue from the observations and experiments belonging to a particular department (which method, so far as it goes, is sound and right); but they exclude altogether from their view those general theorems of political philosophy which are founded on a wider induction, and represent facts lying out of the sphere of their experience. The materials of the practical man are generally sound and valuable, but they must be properly employed, in order to make a good structure. In general, it requires a man whose mind has taken a wider range than the limited subject in question, to turn these materials to good account. It is only by combining them with results derived from a more extensive view, that they can be safely applied in practice; whereas the practical man, confident in his own precise but limited knowledge, applies his opinions without the due corrections and allowances, and is blind to considerations which lie out of the circle of his personal experience.

§ 11 It happens not unfrequently that practical experiments conduce to the establishment of a general truth, and in fact perform the function of scientific experiments, though instituted with a different and more limited object. Most of the general principles of legislative science have been worked out by

his *Conspectus Medicinæ Theoreticæ*, states, in several places, that the abuse of theory has led men to reject it altogether in medicine, and to rely exclusively on experience.—See p. xvii. xxv. xxxix. § 72. See below, ch. xxi. § 2.

a series of practical experiments upon society ; many unsuccessful attempts, differing from one another in their character, having at last shown the way to a better system, by serving as examples to deter. Some theories, indeed, are so alluring and attractive, especially on a superficial consideration, that nothing short of an actual experimental proof of their evil operation is sufficient to convince the world of their unsoundness. Such is the theory of propagating religious truth by penal inflictions (or what is popularly called religious persecution) ; such is the theory of commercial protection ; and such, too, is the theory of protection of labour, which is now advancing into popular favour, and under which mankind seem destined to suffer before they have discovered its true tendencies.

Practical experiments upon foreign nations—the result of conquest or colonization—may likewise serve to disprove imaginary empirical laws, which have been the result of an inaccurate or narrow observation. Thus, Montesquieu lays it down that ‘ all the Oriental nations, with the exception of the Mahometans, believe all religions to be in themselves indifferent. It is only (he adds) as a change in the government that they fear the establishment of another religion.’⁽³⁷⁾ In support of this generalization, he refers to examples drawn from Japan, Siam, the Calmucks, and Calicut. But the position that Oriental nations are indifferent about a change of religion, provided it is not accompanied by a change of government, is refuted by the practical experiment of the British empire in India. We have changed the government of the Hindus, but we cannot change their religion. And experience has shown, that not only the Mahometan, but the Hindu subjects of England in India are highly sensitive on the subject of religion ; and that so far from the change of government leading to a change of religion, a systematic attempt on the part of the government to change the religion of the people would be followed by a general resistance to the British rule in India.

(37) *Esprit des Loix*, xxv. 15.

§ 12 The preceding explanation shows that when politics is said not to be an *experimental science*, we exclude from the signification of experiment, not only all intentional and active observation, but also all practical experiments; and that we confine the word in question to scientific experiments, strictly so called. It is important to bear these distinctions in mind, as they appear to have been sometimes overlooked even by Bacon and some of his followers; and the non-observance of them exercises a material influence upon the application of this term to politics. For if by an experimental science is meant a science founded on observation and experience, politics is an experimental science not less than chemistry, or optics, or astronomy. Or if by an experimental science, is meant a science which institutes practical experiments, politics is again, on this account also, an experimental science. But if by an experimental science is meant a science which admits of scientific experiments, of *experimenta lucifera*, then politics is not an experimental science.⁽²⁶⁾

(38) By *experiment*, in the second book of the *Novum Organum*, and in several passages of the first book (as where he speaks of *lucifera experimenta*, and of the experiments of Gilbert with the magnet, of the chemists with gold, Aph. 70), Bacon appears to mean experiment in the strict sense; i. e., a manipulation of some physical object, contrived for the purpose of ascertaining its properties, and establishing a scientific truth. At other times, he appears to mean the results of intentional observation, whether there be manipulation or not. Thus, in lib. i. aph. 82, he says:—‘*Restat experientia mera: quæ, si occurrat, casus; si quæsitæ sit, experimentum nominatur.*’ Here experiment appears to be that experience which is sought by the observer, as opposed to that which presents itself to him unsought. According to his acceptance of the word, the observations of the astronomer upon the heavenly bodies would be an experiment. Thus, in lib. ii. aph. 39, he calls Galileo’s discoveries in the heavens, by the aid of the telescope, experiments. After speaking of the satellites of Jupiter, the inequalities in the moon’s surface, the spots in the sun, &c., discovered by this instrument, he adds—‘*Omnia certe inventa nobilia, quatenus fides hujusmodi demonstrationibus tuto adhiberi possit. Quæ nobis ob hoc maxime suspecta sunt quod in istis paucis sistatur experimentum, neque alia complura investigatu æque digna eadem ratione inventa sint.*’

Elsewhere, he appears to use *experimenta* in a sense which would include all the results of experience, whether sought or unsought. Thus, in lib. i. aph. 72, he refers to the narrow horizon of experience commanded by the ancients, owing to the short duration of their authentic history, and the small extent of their geographical discoveries. ‘*Angusta erat et tenuis notitia per illam ætatem vel temporis vel orbis; quod longe pessimum est, præsertim iis qui omnia in experientia ponunt.*’ He then contrasts

§ 13 We have now examined the process of observation in politics, scientific and practical; and have shown to what extent the method of experiment is either practicable or useful in reference to it. From what has been stated, it results that the facts with which the political philosopher, the historian, and the practical statesman have to deal, are not, in themselves and taken singly, recondite or abstruse. The phenomena of political science lie upon the surface; and if the process of observation was alone sufficient to form them into a science, there would be no difficulty in giving to politics as much perfection as to other sciences. The obstacles to scientific certainty in politics do not arise at this stage of the process of investigation, but are due to distinct

the advantages of the moderns, in this respect:—'Nostris autem temporibus et novi orbis partes complures, et veteris orbis extrema undique innotescunt, et in infinitum experimentorum cumulus excrevit.' Here the results of geographical discovery are called *experiments*; but many of these were the accidental consequences of expeditions made for purposes of conquest, colonization, or trade.

Bacon speaks of a *Historia Naturalis et Experimentalis*, which he considers as the necessary basis of a sound philosophy. By *historia experimentalis*, he understands the history of arts, which he distributes into three compartments—viz., 1, mechanical arts; 2, the operative part of liberal sciences; 3, practices and experiments which have not been formed into a regular art. See *Parascue ad Hist. Nat. et Experim.* vol. xi. p. 411, 416; *Nov. Org.* ii. 10. Here again the word *experiment* includes manual processes made without any scientific aim.

In more modern writers there is likewise often an indistinctness as to the meaning of experiment; inasmuch as it is sometimes used in the narrow sense of a manipulation of natural objects, and sometimes in the general sense of a result of experience. Thus, Bishop Sprat, in his *History of the Royal Society*, speaks of Lord Bacon as being the great teacher of the experimental philosophy (p. 35; ed. 1702). Dugald Stewart likewise calls Bacon the father of experimental philosophy (First Diss. *Encycl. Brit.* vol. i. p. 32, ch. ii. § 1). The phrase, 'experimental philosophy,' appears, in fact, to be often used to signify the philosophy which is founded, not upon *experiment*, but upon *experience*. Thus, the same writer calls Descartes 'the father of experimental the philosophy of the human mind' (Diss. p. 56), upon which Mr. Hallam remarks, that the word *experiment* must be taken in the sense of *observation*.—*Literature of Europe*, vol. iii. p. 249.

D'Alembert (*Discours Préliminaire de l'Encyclopédie*) says that 'la physique générale et expérimentale' differs from the physico-mathematical sciences, 'en ce qu'elle n'est proprement qu'un recueil raisonné d'expériences et d'observations.'—*Œuvres*, tom. i. p. 203.

So Playfair, in his *Dissertation on the Progress of Mathematical and Physical Science*, divides his inquiry into two branches, the latter of which is 'the branch of logic which teaches the application of *experiment and observation* to the interpretation of nature' (p. 433). To the inquiry thus

causes, which we are about to consider. The only source of uncertainty and error which can be fairly traced to the observing process is the multitude and variety of objects to be observed, and the number of relations in which they require to be viewed; thus rendering it difficult to observe *all*, though the observation of *each* is easy.

Before, however, we begin the inquiry into the method of investigating facts, in order to determine the order of political causation, we shall resume the subject of political history, which we have only been able hitherto to examine in a general point of view, but which, on account of its importance, as the principal record of political observations, requires a special and distinct consideration.

described, he prefixes the title of 'experimental investigation' (p. 449), thus making *experimental* include simple observation as well as experiment.

The confusion of *experiment* and *experience* may be clearly perceived in the following passage:—'It should be observed that Bacon does not charge the physics of antiquity with being absolutely regardless of *experiment*. No system, indeed, however fantastical, has ever existed, to which that reproach could be applied in its full extent; because, without regard to *fact*, no theory can ever become, in the least degree, plausible. The fault lies not, therefore, in the absolute rejection of *experience*, but in the unskilful use of it; in taking up principles lightly from an inaccurate and careless *observation* of many things; or, if the *observations* have been more accurate, from those made on a few facts, unwarrantably generalized.'—Playfair's *Dissertation*, p. 456.

Playfair describes the precepts in the second book of the *Novum Organum*, as 'the rules which Bacon laid down for the conduct of experimental inquiries' (p. 468); he calls the Baconian method 'an experimental logic' (p. 465). Yet among the examples with which he illustrates these rules, he includes many which are not experiments in the ordinary sense of the word; neither *experimenta incifera*, nor *experimenta fructifera*; thus, in p. 465, he borrows an *instantia crucis* from astronomy. Elsewhere, Playfair recognises the received distinction between simple experience, or observation, and experiment. Thus, speaking of the ancient physics, he says:—'Though *observations* were sometimes made, *experiments* were never instituted; and philosophers who were little attentive to the facts which spontaneously offered, did not seek to increase their number by artificial combinations.'—*Diss.* p. 453.

The ambiguity in question is clearly explained by Sir James Mackintosh:—'This word 'experimental' has the defect of not appearing to comprehend the knowledge which flows from *observation*, as well as that which is obtained by *experiment*. The German word 'empirical' is applied to all the information which experience affords; but it is in our language degraded by another application. I therefore must use 'experimental' in a larger sense than its etymology warrants.'—*On Bacon and Locke; Works*, vol. i. p. 333.

CHAPTER VII.

ON THE TREATMENT OF POLITICAL HISTORY.

§ 1 THE essence of history is to be *true*. It ought to be a recital of facts determined either by the personal observation and knowledge of the historian himself, or by that of original witnesses, on whose testimony he relies. Unless it reproduces the result of actual observation; unless it narrates events which occurred within reach of the senses of percipient witnesses, who related or recorded what they saw and heard, it is not history. It is as necessary for the political historian to register real transactions and matters of actual fact in human affairs, as for the astronomical observer to record the successive times and places of the heavenly bodies, for the medical observer to note the successive stages and symptoms in a case of disease, or for the navigator to enter the true course of a ship in his log-book.

Let us, then, consider what are the rules which the historian must observe as to the evidence requisite for accrediting the facts to be admitted into his narrative; and we will, in the first place, confine ourselves to the *contemporary* historian.

§ 2 He who writes the history of his own time may, if he has been an actor in the events which he describes, rely, to a certain extent, upon his own personal observations, and upon original documents obtained from authentic sources.⁽¹⁾ For

(1) Respecting historical autopsy, see Wachsmuth, *Theorie der Geschichte*, p. 83. Some of the ancients wished to restrict the word *historia* to compositions in which the author described events at which he was himself present (Gell. *Noct. Att.* v. 18). Lessing has approved of this limitation of the word (see Wachsmuth, *ib.*) It appears (as Wachsmuth remarks) to have been derived from the original sense of the word *laropia*, viz., personal inquiry. Neither ancient nor modern usage, however, sanctions the denial of the name of a history to a recital of the events of past ages; nor has such a restricted use of the term anything to recommend it. It would be a capricious use of language which would refuse to Livy or Gibbon the appellation of a historian (see Rühls, *Propäcutik*, p. 182). On the qualifications necessary for a trustworthy contemporary

example, much of Xenophon's *History of the Expedition of the Ten Thousand*, of the history of Polybius,⁽¹⁾ and of Cæsar's *History of the Gallic War*, was written from personal knowledge of the facts: and Lord Clarendon informs his readers that his *History of the Rebellion* had, in general, the same foundation.⁽²⁾

historian, see Ernesti, *De Fide Historicæ recte æstimandâ*, § 37-8; in his *Opuscula Philologica Critica* (Lug. Bat. 1776), p. 64; and as to the testimony of contemporary historians, see Griffet, *Traité des Différentes Sortes de Preuves qui servent à établir la Vérité de l'Histoire* (Rouen, 1775), c. 6-7.

(2) Polybius states that he was not only a spectator of most of the events described in his history, but a participator in, and even the author of many (iii. c. 4. *ad fin.*) Plutarch refers to Philistus as having been an eye-witness of the Athenian siege of Syracuse—*τῶν πραγμάτων ὁπαρὴς γράμμενος*, Nic. 19.

Cicero (*De Off.* iii. 32), in quoting Polybius with reference to the ten Romans sent by Hannibal to the senate, after the battle of Cannæ, calls him 'bonus auctor in primis,' that is to say, 'a witness highly deserving of credit,'—'fide dignus,' as the words are interpreted by Zumpt. Cicero remarks that there are different versions of the story—one is that of Polybius, whose authority he seems to prefer; another is that of a writer named Acilius.—*Ib.* c. 26. Cicero opposes Homer, as 'optimus auctor,' to the account of the tragic poets, for the conduct of Ulysses. Here also 'a witness of high authority' is meant. Livy again, in quoting Polybius for a fact respecting King Syphax, calls him 'haudquasquam spernendus auctor,' 'a witness of no mean authority.'—xxx. 45. In xxxiii. 10, he follows the testimony of Polybius with respect to the numbers killed at the battle of Cynoscephalæ, in preference to the testimony of Valerius Antias and Clandius Quadrigarius, and calls him 'non incertus auctor quum omnium Romanarum rerum, tum præcipue in Græciâ gestarum.' Here again the credibility of his testimony is alone in question. Nevertheless, these passages have been supposed to refer to the general character of Polybius as a *writer* and a *historian*; and to indicate a disparaging estimate of his merits.—See Niebuhr, *Hist. of Rome*, vol. i. n. 1182. *Auctor*, in classical Latin, is never equivalent to *scriptor*.

(3) 'The particulars of all that affair (viz., the invasion of the Scots and movements of the Marquis of Newcastle, in 1643), and the whole transaction of the northern parts, where the writer of this history was never present, nor had any part in those counsels, are fit for a relation apart, which a more proper person will employ himself in.'—*History of the Rebellion*, b. vii. vol. iv. p. 328; ed. 12mo. Again, speaking of the events of the year 1645, he says, in the introduction to b. ix., 'I knew most of the things myself which I mention, and therefore can answer for the truth of them; and other most important particulars, which were transacted in places very distant from me, were transmitted to me by the king's immediate direction and order, even after he was in the hands and power of the enemy, out of his own memorials and journals' (vol. v. p. 123). Compare Clarendon's *State Papers*, vol. ii. p. 288, 9.

Ranke (*Zur Kritik neuerer Geschichtschreiber*: Leipzig and Berlin, 1824, p. 8) examines how far Guicciardini was a witness of the events which he narrates.

But as a history of a nation comprehends events occurring almost simultaneously, as well as unexpectedly, in different places, even the contemporary historian must derive a large portion of his narrative from the accounts of others. He cannot have been present at all the public deliberations, the judicial proceedings, the popular tumults, the conflicts of armed men, which he has to describe. Especially is this the case with military operations in foreign countries, and with naval engagements or the movements of ships at sea.

Thucydides thus describes the manner in which he collected the materials of his history: 'He did not (he says) write down the events of the war from the account of any casual person, nor according to his own supposition; but he formed an accurate narrative, from his personal knowledge, and (as far as possible) from personal witnesses. This process' (he adds) 'was a laborious one; because those who were present on each occasion did not give the same account of the same event, but differed according to the bias of their minds or the accuracy of their memory.'⁽⁴⁾ Theopompus, again, we are told, made collections at great expense for his history. He was, indeed, an eye-witness of many events; but he obtained the accounts of others from the leading men of the time, generals, demagogues, and philosophers.⁽⁵⁾ St. Luke, in the preface to his Gospel, refers to accounts founded on the testimonies of 'eye-witnesses and ministers of the word.'⁽⁶⁾ Even for transactions at which an historian was himself present, he would, in modern times, often rely rather upon the reports of other witnesses, who attended professionally to record the pro-

(4) i. 22. Dionysius observes that Thucydides did not compose his history from accidental rumours; but, with respect to the events at which he was present, from personal knowledge, and with respect to those from which he was excluded by his banishment, from inquiry of the best informed persons.—*De Thuc. Hist. Jud.* c. 6.

(5) Dionys. *Epist. ad Pomp.* c. 6. Aristotle speaks of geographical works being formed partly by personal observation, and partly out of the accounts collected by the author from those on the spot, *δῆλον δ' ἐστὶ τοῦτο θεωμένους τὰς τῆς γῆς περιόδους ταύτας γὰρ ἐκ τοῦ πυνθάνεσθαι παρ' ἑκάστων οὕτως ἀνέγραψαν, ὥστεν μὴ συμβέηκεν αὐτοῖσιν εἶναι τοὺς λέγοντας.*—*Meteor.* i. 13.

(6) i. 1-4.

ceedings (for example, short-hand writers) than upon his own notes or recollection. (7)

A contemporary historian must, therefore, to a considerable extent, found his narrative upon the testimony of witnesses. Historical autopsy can never be carried so far that the historian is not more indebted to the senses of others than to his own senses, for the facts which he records. (8) With respect to the historian of a former age, it need scarcely be remarked that his narrative must be exclusively framed from the evidence of others.

Whether, therefore, the historian narrates the events of his own or of a former age, it is necessary that he should be fur-

(7) Strabo remarks that a map of the world can only be constructed by combining the reports of different eye-witnesses, and hence, he adds, for scientific purposes, the ear is a more important sense than the eye—ὁ δ' ἀξίων μόνους εἶδέναι τοὺς ἰδόντας ἀναγκάζει τὸ τῆς ἀκοῆς κριτήριον, ἥτις πρὸς ἐπιστήμην ὀφθαλμοῦ πολὺ κρείττων ἐστὶ, II. 5, § 11. It is difficult to make these comparisons where both senses are necessary; for the facts which are assumed to be reported to the ear were observed originally by the eye. Polybius, however, dwells on the importance of personal observation in a historian, and disapproves of a history written merely from books, xii. 27-8.

(8) In the following criticism on the *Commentaries of Cæsar*, preserved by Suetonius, this distinction is indicated—'Pollio Asinius parum diligenter parumque integrā veritate compositos pntat: quum Cæsar pleraque, et quæ per alios erant gesta, temere crediderit, et quæ per se, vel consulto vel etiam memoriâ lapsus perperam ediderit.'—Cæsar, c. 56.

The same distinction is taken in the following remark on Clarendon's *History of the Rebellion*:—'There is no doubt that so much of the Earl of Clarendon's history, as relates to facts that fell immediately under his own cognizance, may be writ with great exactness, and much regard to truth; but, without any imputation on his character, it may be affirmed that where he took things on the credit of other people, he might be imposed upon or mistaken.'—*Biog. Brit.* art. 'Campbell, M. of Argylo,' note A.

Speaking of Sarpi and Pallavicini, Ranke says:—'We cannot regard as his own all that appears in the works of a historian, especially in those so rich in matter, and so full of digressions; he is a mere receiver of the mass of his facts. It is his manner of apprehending and handling his stuff that shows the man, whose individual character it is that gives originality and unity to his work.'—*Hist. of the Popes*, vol. iii. app. p. 56, Engl. tr. Neither Sarpi nor Pallavicini, however, could have been personal witnesses of the transactions which they have narrated. The Council of Trent lasted from 1542 to 1563, whereas Sarpi was only born in 1552, and Pallavicini not till 1607. Sarpi describes himself, at the beginning of his history, as having derived his facts from printed works, and from the manuscripts of deceased prelates and others who had taken part in the proceedings of the Council.—See Ranke, *ib.* p. 58. Compare the remarks of Daunou, tom. vii. p. 321, 334, and of Rühns, *Entwurf einer Propädeutik des Historischen Studiums*, p. 181 (Berlin, 1811).

nished with sure criteria for distinguishing witnesses whose testimony is worthy of credit, from those whose testimony is suspicious or false.⁽⁹⁾

§ 3 Now the leading maxim which ought to govern his judgment in classifying the witnesses whose accounts are before him, is to give the first place to the *original witnesses*; to the persons who were present at the transaction, and who describe the impressions made upon their senses of sight and hearing. All hearsay evidence, all evidence derived from the repetition of a story told orally by the original witness, and perhaps passed on orally through two or three more persons, is of inferior value, and to be placed on a lower degree of credibility.⁽¹⁰⁾ It is true

(9) 'La science historique n'a pas d'autre source que les témoignages, et pas d'autre instrument que la critique, appliquée à reconnaître l'authenticité, le sens précis, et la vérité, de chacune de ces dépositions.'—Daunou, tom. i. p. xviii.

(10) Polybius states that, on account of the choice of the time included in his history, he is enabled to narrate events which he and his contemporaries had witnessed, or which, having been witnessed by the fathers of the existing generation, he heard directly from original witnesses. 'To go further back (he says), so as to write the report of a report, appeared to me unsafe, both as to the conception of the fact, and the judgment upon it.' Τὸ γὰρ ἀνωτέρω προσλαμβάνειν τοῖς χρόνοις, ὥς ἀκοὴν ἐξ ἀκοῆς γράφειν, οὐκ ἐφαίνεθ' ἡμῖν ἀσφαλεῖς ἔχειν οὔτε τὰς διαλήψεις οὔτε τὰς ἀποφάσεις—iv. 2, § 3. The expression ἀκοὴ ἐξ ἀκοῆς exactly corresponds to the meaning of *hearsay evidence*, in the historical sense of the word.

Hearsay evidence is characterized by Lucretius in the following verses, which describe the disadvantageous position of kings, in respect of personal observation:—

'Quandoquidem sapinnt alieno ex ore, petuntque
Res ex auditis potius, quam sensibus ipsis.'—V. 1132-3.

A similar preference is given to original over hearsay evidence in the verse of Plautus—

'Pluris est oculatus testis unus quam auriti decem.'

Trucul. act ii. sc. 6, v. 8.

By an *oculatus testis* is here meant an original witness; by an *auritus testis*, not an ear-witness, but a person who has heard the story told orally, and repeats it; whose evidence is merely hearsay. This verse differs from the dictum of Horace:

'Segnius irritant animos demissa per aures
Quam quæ sunt oculis subjecta fidelibus'—

the meaning of which maxim is, that the narrative of an event, even by a personal witness, makes a less powerful impression on the mind than the actual sight of it. The principle involved in this difference is wholly inapplicable to history, though it is applicable to the drama, to which it is applied by Horace.

Herodotus introduces the dictum, that the eyes are more believed than

that evidence proceeding from an original witness is often false, particularly in cases where interest is concerned. The accounts of original witnesses, as is well known, often conflict, so that one or the other account *must* be false. On this subject, however, no general maxims would here be of any use: where the best testimony of which the case admits (viz., the testimony of original witnesses), is contradictory or suspicious, the historian must, in estimating its value, be guided by his experience of human affairs, and the peculiar circumstances of the case: he must apply to such testimony the maxims which are recognised for testing the truth of evidence in the practical business of life.

§ 4 Hearsay, secondary, derivative, or traditionary evidence, is of two sorts: namely, contemporary and non-contemporary. For example, we may be informed of a recent event by a rumour, which has passed through several mouths; or the knowledge of a fact which occurred many years ago may reach us by means of a family tradition, handed down through several generations. These two sorts of hearsay are distinguished by Thucydides, when he remarks that the accounts of ancient events at home, and of contemporary facts abroad, are equally falsified by their oral transfer.⁽¹¹⁾ In strictness, all oral tradition implies a lapse of time; but where the report relates to an event of fresh occurrence, it may be considered contemporary.⁽¹²⁾

the ears—*ὅρα γὰρ τυγχάνει ἀνθρώποισιν ἴοντα ἀπιστότερα ὀφθαλμῶν*, i. 8, ('seeing is believing,') which Polybius expresses thus:—*ὀφθαλμοὶ γὰρ τῶν ὄντων ἀκριβέστεροι μάρτυρες*.—xii. 27. Other instances of this saying are cited by Loutsch, *Paræm. Gr.* vol. ii. p. 744. In the *Institutes* it is remarked:—'*Magis veritas oculatâ fide, quam per aures animis hominum infigitur*.'—iii. 6, § 9.

On the maxim, that the eyes are more to be trusted than the ears, see *Mascardus de Probationibus*, quest. viii. n. 20.

(11) Thuc. i. 20. Contemporary history is called by Plutarch, *ἡ τῶν πράξεων καὶ τῶν βίων ἡλικιώτης ἱστορία*.—*Per.* 13.

(12) Historical memorials, considered with reference to the time when they have been reduced into writing, may, according to M. Daunou, be distributed into the following eight classes:—

'1. *Procès-verbaux* of public proceedings, or daily official registers, kept by the proper recording officers;

'2. Private diaries or journals;

Hearsay, or secondary evidence, can at the best only be equal in value to original or primary evidence: inasmuch as it only professes to repeat and reproduce that evidence. A hearsay report is simply a repetition of the oral account of a percipient witness, and the utmost at which it aims is to repeat that account with fidelity.⁽¹²⁾ In the vast majority of cases, however, the repetition is *not* faithful; and the chances of error increase with the number of repetitions which the story undergoes.⁽¹³⁾ When the process is multiplied on a large scale, the effect resembles the description of Ovid, in his image of the abode of Fame:—

Veniunt leve vulgus cunctque,
Mixtaque cum veris passim commenta vagantur
Millia rumorum, confusaque verba volutant.
E quibus hi vacuas implent sermonibus aures,
Hi narrata ferunt alio, *mensuraque ficti*
Crescit, et auditis aliquid novus adjicit auctor. ⁽¹⁴⁾

Or, as the same process is described by Pope:—

The flying rumours gathered as they rolled,
Scarce any tale was sooner heard than told;

'3. Printed newspapers;

'4. Personal memoirs;

'5. Contemporary histories;

'6. Histories written one or two centuries after the events described;

'7. Works of ancient historians, relating to remote periods;

'8. Histories of antiquity by modern writers.'—Tom. i. p. 64-71; tom. vii. p. 186-93.

The four first of these classes are an imperfect enumeration of the materials for history. The sixth and seventh are two ill-defined classes, intermediate between contemporary histories, derived from original information, and histories compiled from existing records.

(13) Thucydides remarks that, even with respect to their domestic annals, the Greeks repeated traditionary stories without inquiring into the original evidence; *οἱ γὰρ ἄνθρωποι τὰς ἀκοὰς τῶν προγεννημένων, καὶ ἣν ἐπιχώρα σφίσι βί, ὁμοίως ἀδασανίστως παρ' ἀλλήλων δέχονται*.—i. 20. If, therefore, the original version was false, the most faithful repetition could never cure the defect.

(14) Bayle (*Dict. art. 'Balde,'* note C) says that a hearsay report should be recorded only in one of two cases: 1, if it is very probable; 2, if it is mentioned in order to be exploded. He again points out the danger of trusting to hearsay reports in historical questions,—Art. 'Chigi,' note G. On the uncertainty of hearsays, see Volney, *Leçons d'Histoire*; *Œuvres*, ed. 1837, p. 564-6. The English word *hearsay* appears to be borrowed from the old French *ouï-dire*, used as a noun.

(15) *Met.* xii. 53-8.

And all who told it added something new,
 And all who heard it made enlargements too,
 In every ear it spread, on every tongue it grew. ⁽¹⁶⁾

§ 5 The causes of the inferiority of hearsay to primary testimony are not obscure. An oral account is sometimes imperfectly understood, and almost always imperfectly remembered. Many persons are so habitually loose and inaccurate in their narratives, that even without any bias or motive to distort the account, they alter a story in the repetition; they omit material parts; they transpose others—thus altering the chronological series, and perhaps the sequence of cause and effect: they unconsciously supply motives and reasons, and add ornamental touches of their own. Where, however, there is a strong bias in the mind of the repeater; where the account excites in his breast lively feelings of sympathy or antipathy, of admiration or disgust, of fear or wonder; where it relates to circumstances in which he, or those connected with him, have or believe themselves to have, a strong pecuniary interest; where it strikes on a chord of political or religious sentiment—there the probability of a more serious perversion of the facts, unless the person be of strict and conscientious habits as to veracity of narration, is to be apprehended. The temptation to colour, to exaggerate, to extenuate, to suppress, to interpolate malicious or apologetic glosses, to insert inuendoes, to give a sinister meaning to innocent expressions, and to convert accident into design, is, in a case of this kind, almost irresistible, and certainly is not resisted by the great majority of mankind. In an age, or in a class of persons, whose canon of belief still includes supernatural events in the contemporary order of nature, there is a further danger of marvellous incidents being engrafted upon a plain fact, while it is travelling

(16) *Temple of Fame.*

* *Nunquam ad liquidum fama perducitur; omnia, illâ tradente, majora sunt vero.*—Curtius, ix. 2.

Any prevailing passion, and especially fear, vitiates the truth of rumour.

* *Sic quisque pavendo
 Dat vires famæ, nulloque auctore malorum
 Quæ finxere timent.* Lucan, i. 484-6.

from mouth to mouth.⁽¹⁷⁾ Lastly, oral statements, made casually, or in private, by original witnesses—which often are the foundation of hearsay reports—are not uttered with the same care, deliberation, previous refreshing of the memory, and reference to notes, attention to completeness and order of events, and sense of responsibility, as written accounts, or as oral depositions in courts of justice or on public occasions, taken down verbatim in writing at the time.

The diminution of accuracy by oral repetition is akin to the effect produced by successive transcriptions of the account of a historical fact. Everybody accustomed to historical investigations knows the importance of going to the fountain-head, of not trusting to second-hand quotations, and to the statements of writers who rely upon ulterior authorities.⁽¹⁸⁾ If, however, compilers who write either with the book open before them, or after a recent inspection of it, are often inaccurate, how much greater is the danger of error from misconception, exaggeration, carelessness, or defect of memory, when statements are repeated by word of mouth! The perversion, mutilation, and distortion which a fact generally undergoes when it is once fairly committed to the keeping of popular rumour, without any controlling or verifying influence—when it is sent down the stream of popular tradition, to drift wherever chance may carry it—may likewise be compared with the changes which a foreign or a learned

(17) When mythical accounts grow up in a historical age, and consist in a mere embellishment of facts, the true and the altered version can sometimes be compared. Thus, Livy tells us that the Romans, in the year 205 B.C., in consequence of oracles, applied to King Attalus for permission to remove to Rome a sacred stone, called the mother of the gods, from Pessinus, in Phrygia, which he willingly gave.—xxix. 11, 14. Also Herodian, i. 11. Ovid, in his *Fæsti*, in narrating the same story, says that Attalus at first refused the application, but afterwards granted it, in consequence of a miraculous speech of the goddess.—iv. 265-72.

(18) 'Chacun se mêle de changer quelque circonstance dans ce qu'il cite : par ce moyen les faits se gâtent, et se pervertissent bientôt entre les mains de ceux qui les citent.'—Bayle, *Dict.* ; art. 'Tanaquil,' note D. Some remarkable examples of the errors introduced into historical statements by successive transcribers and compilers may be seen in the *Memoir of Sebastian Cabot*, (London, 1831,) by Mr. Biddle.

word undergoes in the mouths of the vulgar, before it is adapted to their pronunciation.

An analogy may, moreover, be perceived between the oral tradition of facts, and the transmission of customs or institutions from one generation to another.⁽¹⁹⁾ Usages of this sort, dependent upon the lessons conveyed from parents to children, and upon the imitation of seniors by their juniors, though their substance may remain identical, yet often undergo considerable changes in the descent. However, in the case of customs, and of laws dependent on usage, there is more security against alteration than in the repetition of a story by one person to another, because there is the agreement of many persons in its observance. Besides, unwritten law, or *jus non scriptum*, though not issued in a written form, is almost always preserved in writing. A similar analogy may be discerned with the transmission of doctrines from master to disciple in a philosophical or literary school.⁽²⁰⁾ Here, again, though much is preserved in writing, the doctrines undergo a change as they pass through successive generations of teachers.

§ 6 It is partly in consequence of the natural inferiority of secondary to primary evidence, of the small value which belongs to an oral repetition of the account of an original witness, as compared with an account given by the witness himself in his own words, that hearsay evidence is, with certain exceptions, excluded from our courts of common law, both in civil and criminal matters.⁽²¹⁾ It should, however, be observed, that there

(19) The idea of a *tradition*—of a passing on or handing down—is often applied to usages and customs, both civil and religious. Thus Horace :

'Traditum ab antiquis morem servare.' *Sat.* i. 4, 117.

'Quisquis ades, faveas ; fruges lustremus et agros,

Ritus ut a prisco traditus extat avo.'—Tibull. ii. 1, 1.

'Germanorum consuetudo a majoribus tradita.'—Cæsar, *B. G.* iv. 7. See also Eurip. *Bacch.* 201.

(20) On the oral tradition of doctrines in the Pythagorean sect, see Plutarch, *Num.* 22.

(21) See Phillipp's *on Evidence*, vol. i. p. 185 (ed. 9, 1843) ; and for the history of the rule, which is of comparatively recent introduction in our law, *ib.* p. 208. It may not be superfluous to remark, that the distinction between original and hearsay evidence must not be confounded with the distinction

are certain important reasons which apply to the exclusion of hearsay evidence in courts of law, but which do not extend to evidence for historical purposes. It is important, for the administration of justice, that a witness should give his deposition in person, in order that his manner may be observed, and that after he has been examined by the party on whose behalf he appears, he may be cross-examined by the opposite party and by the court. It is likewise material, that if he gives deliberately false testimony he should be liable to an indictment for perjury.⁽²²⁾ But a historian cannot summon and cross-examine *his* witnesses; he cannot observe their manner and deportment under examination; nor are they, if they testify falsely, subject to be indicted for perjury. He judges exclusively on written depositions; and provided those written depositions really proceed from the original witnesses, and are an authentic record of their testimony, he is satisfied, and does not object to their being furnished to him by an intermediate party.

between direct and indirect, presumptive, or circumstantial evidence. The latter distinction depends on its proving the matter in issue, or something from which the matter in issue is inferred; whereas the former distinction depends on the witness speaking from his own knowledge, or from the knowledge of others. They are cross-divisions, founded on different principles.

The report from the committee to inspect the Lords' journals upon the proceedings in Hastings' trial (drawn by Burke, and printed in vol. xiv. of his works), argues against the applicability of strict rules of evidence to a parliamentary impeachment, and condemns exclusion of evidence which leads to a failure of justice. It also shows the importance of presumptive or indirect evidence in a case such as that of Hastings; but it says nothing in favour of the admissibility of secondary or hearsay evidence, except so far as it may be understood to include this species of evidence in the general tenour of its reasoning.

The modern civilians had laid down very strict rules with respect to the necessity of proof by original, not hearsay evidence. 'Testis debet attestari de his vel que vidit vel que sensu corporis certa esse percipit; alias dolus presumitur, nec ignorantie vel erroris excusatio prodest.'—*Monochius de Præsumptionibus*, lib. v. præsumpt. 22. 'Postremo scientias causam debent afferre per illum corporis sensum quo percipitur id de quo rogantur; hoc est, ut quod sub aspectum cadit, dicat se vidisse, quod sub auditum, se audivisse asserat, et sic de ceteris.'—*Marsardus de Probationibus*, quæst. v. n. 126 (vol. i. p. 13). The doctrines of the civil law on this head doubtless influenced the English jurisprudence on the important subject of hearsay.

(22) On the grounds of the exclusion of hearsay evidence in judicial proceedings, see Philipps, vol. i. p. 206; Starkie on *Evidence*, vol. i. p. 38, ed. 3, 1842.

From this explanation, it will be seen that the positions of a historian and of a court of justice, with respect to hearsay evidence, are, in one material point, wholly different. Evidence may be hearsay to a court, which is not hearsay to a historian. A judge considers all evidence hearsay, if the statement of the transaction proceeds from a person who is not produced in court.⁽²³⁾ If, for example, a person present on any occasion has

(23) 'The highest degree of certainty of which the mind is capable, with respect to the existence of a particular fact, consists in a knowledge of the fact, derived from actual perception of the fact by the senses; and even this degree of evidence is obviously capable of being strengthened or weakened by particular circumstances.

'The degree of evidence which ranks the second in the scale, consists of information derived, not from actual perception by our senses, but from the relation and information of others, who have had the means of acquiring actual knowledge of the facts, and in whose qualifications for acquiring that knowledge, and retaining it, and faithfulness in afterwards communicating it, we can place confidence.

'Information thus derived is evidently inferior, in point of certainty, to that knowledge which is acquired by means of the senses, since it is one step removed from the highest and most perfect source. The truth of the fact in question depends upon the powers of perception possessed by another; the opportunity afforded him of applying them; his diligence in making that application; the strength of his recollection; and his inclination to speak or to write the truth. It is, however, upon knowledge thus derived that juries must in general act; they must be informed of the *res gesta* by those who have been eye and ear witnesses of them; these means of knowledge, and their faithful communication of it, being guarded by the securest means which the law can devise. A third and still inferior ground of belief consists in information which we derive, not immediately from one who has had actual knowledge of the fact by the perception of his senses, but from one who knows nothing more of the fact, than that it has been asserted by some other person. This species of evidence, which is generally termed *hearsay evidence*, is evidently inferior, in point of certainty, to the former, even for the common purposes of daily intercourse in society; for, although the author of the assertion may be known, and his veracity highly appreciated, there is a greater latitude afforded for deception, mistake, and misapprehension, and for defect of memory; and hence a degree of doubt must result, which must evidently be increased in proportion to the number of persons through whom the communication has been transmitted: and consequently, where the author is unknown, and the number of intermediate parties who have acted in the transmission is also unknown, the knowledge must also be vague and uncertain, even as applied to the common affairs of life. But for the purposes of proof in a court of justice, a still stronger reason operates to the rejection of such evidence, namely, that it cannot be subjected to the ordinary tests which the law has provided for the ascertainment of truth—the obligation of an oath, and the opportunity afforded for cross-examination; for these, or equivalent ones, are the guarantees of truth which the law in ordinary cases invariably requires. In the common course of life, evidence of this nature is frequently, nay usually, acted upon without scruple; but in the ordinary affairs of life

written a letter describing what he observed; or if a witness was examined by a magistrate, and his deposition, given orally in the presence of the accused party, was taken down in writing and acknowledged by him as accurate; the letter, or the deposition, is, in law, hearsay evidence, because the author of the statement is not sworn as a witness, and examined in open court. Now, where a living person has already given a written account of a transaction, or has undergone a preliminary judicial examination, it is right that he should be produced in person to give his oral evidence to the court.⁽²⁴⁾ But this rule, if enforced indiscriminately, with respect to *deceased persons*, would lead to serious inconvenience in the administration of justice, and hence it has been relaxed to a great extent with respect to evidence of this description. The exceptions to the rule excluding hearsay evidence have been principally dictated by this motive; thus, in cases of pedigree, the declarations of deceased members of the family:⁽²⁵⁾ in cases of public rights, (such as boundaries of parishes, &c.,) the declarations of deceased inhabitants, and the prevalence

there is, in general, no considerable temptation to deceive. On the contrary, a legal investigation of a fact which involves the highest and dearest interests of the parties concerned—property, character, liberty, nay, life itself—presents the greatest possible temptations to deceive; and, therefore, that evidence which is admitted before a jury must be guarded and secured by greater restraints and stricter rules than those which are sufficient for the common purposes of life.—Starkie's *Law of Evidence*, vol. i. p. 36, n. ed. 3.

Hadrian declared in a rescript, 'Testibus se, non testimoniis crediturum,' *Dig. xxii. 5, § 3*. The same emperor laid down, in another rescript, 'Alia est auctoritas presentium testium, alia testimoniorum quæ recitari solent.'—*Ibid.* In these passages, the distinction between the oral testimony of a witness present in court, and the written testimony of an absent witness, is taken.

Eisenhart (*De Fide Historicæ Commentarius*, c. 10) expresses the old doctrine of the civilians thus: 'Quod si testis scripsit testimonium suum, et tradit illud judici in scriptis, vel eidem legit, non valere ejus testimonium.'

(24) The general rule is, that evidence of the declarations of *living* persons cannot be received: they must be produced to give their own account to the court.—Phillipps, vol. i. p. 428.

(25) Phillipps, vol. i. p. 211. Hearsay, in the second degree, is receivable in pedigree cases. Thus, the declarations of a deceased lady, that her first husband was accustomed to make certain statements respecting the pedigree of the family, were admitted.—*Id.* p. 227.

of a local traditionary belief on the subject, are admitted.⁽²⁶⁾ A similar exception is allowed for entries in account books, and in other similar documents, made by a deceased person, if adverse to his interest ;⁽²⁷⁾ for declarations made at the point of death ;⁽²⁸⁾ and for depositions sworn before a magistrate, where the witness is dead, or unable, from permanent bodily or mental incapacity, to appear in court.⁽²⁹⁾ In most of these cases, where the rule against hearsay evidence is relaxed, the evidence of the original witness is obtained in an authentic shape ; but, as he is not forthcoming, and therefore cannot be examined, his own written record of a fact, or as precise a record of it by others as can be procured, is admitted. Now to the judge, an entry in an ancient book, or a written judicial deposition by a deceased witness, is hearsay evidence ; but to the historian, who is satisfied with getting to the fountain-head, without coming into personal contact with the witness, the evidence would be original, and not hearsay. A similar doctrine with respect to the validity of hearsay evidence is laid down in the civil law ; and a similar exception is made, from the necessity of the case, as to the proof of

(26) Phillipps, *ib.* p. 238. Lord Ellenborough, however, has remarked, with reference to cases of this class, that 'reputation is in general weak evidence,' and that the jury ought to be cautioned against giving it too much weight. Other judges have taken a different view of the probative force of reputation in these cases.—*ib.* p. 255. Concerning general reputation, its nature, and the grounds on which it is sometimes admissible in evidence, see Starkie, vol. i. p. 27-30.

(27) Phillipps, *ib.* p. 323. But the doctrine, that 'where there is a competency of knowledge—or at least peculiar means of knowledge—in an individual making a declaration, and a total absence of interest to pervert the facts to which he has spoken, his declarations would be admissible evidence after his death, even though the declarations did not operate against his own interest' (*ib.* p. 318), is too extensive ; and such declarations are not receivable in evidence. A court of equity, however, as it decides upon written evidence, and does not examine its own witnesses—does not act upon this rule. It allows witnesses to be examined for the purpose of perpetuating their testimony, and their answers can be used as evidence in a suit after their death. A common-law court cannot perpetuate evidence, for the reason explained in the text.

(28) *ib.* p. 279. This species of evidence is viewed with distrust by Mr. Phillipps, *ib.* p. 292.

(29) *ib.* vol. ii. p. 64, 71. They are considered the best form of hearsay evidence.

facts which can only be established by the evidence of persons no longer alive.⁽³⁰⁾

The principal exception as to hearsay evidence, recognised by the law of England, which is not founded on the rule requiring the personal appearance of the witness in court, but is common to the judge and the historian, and admits hearsay statements in the ordinary sense of the term, is evidence respecting character. In criminal prosecutions, witnesses are permitted to speak to the general character of the prisoner;⁽³¹⁾ a matter resting on the reputation which a person enjoys among those who know him, and on their belief respecting his moral conduct. A witness in this case is allowed to collect the voices of many, and to represent their collective opinion; the subject is one which scarcely admits of any other sort of proof. Similar rules are recognised in the civil law.⁽³²⁾

Now the distinction between the original testimony of *dead* and of *living* witnesses, so important to the judge, is immaterial

(30) 'Testis de auditu non probat nisi in antiquis' (Mascardus, *ib.* concl. 1368; see also concl. 1370, n. 19). 'Et in universum id in præsentia scias quod ubi verus hominis actus est probandus, probatio per auditum non sufficiat. Limita non procedere in antiquis, et in his quæ hominum memoriam excedunt, quia talia auditu probari possunt' (concl. 151). The latter reason would be more precisely expressed thus:—'Quia talia non nisi auditu probari possunt.' The doctrine as to 'antiquum probari per testes de auditu' is fully explained in concl. 103-104 (vol. i. p. 141-2). It arises from the necessity of the case, as antiquity is construed to be a hundred years, and therefore living witnesses cannot be found to facts of this remoteness. Some jurists have even contested this rule, and have held that some corroboration (as the existence of a public rumour) is necessary. Hence, an *antiquum* may be proved by fame, by public and private writings, by inscriptions, books, &c., by conjectures and presumptions (concl. 105-7). The difficulty of proving an *antiquum* gives rise to the presumption, 'omnia in quolibet actu censentur solenniter intervenisse.'—Concl. 108.

(31) Phillipps, vol. i. p. 469. Entries made in public registers, and other official documents, in the proper form and by the proper officers, are also receivable in evidence, whether the registering person is alive or dead.—Phillipps, vol. ii. p. 95-126.

(32) According to the civil law, there are certain facts which a man is presumed to know concerning his neighbour, as his age, his character, whether he is rich or poor, alive or dead, &c. He is not presumed to know momentary acts (Menochius, *ib.* lib. vi. præ. 24). Among other things, he is presumed to know if a religious neighbour has performed miracles:—'Hinc etiam dicimus vicinum præsumi scire religiosum vicinum edidisse miracula.'—n. 31.

to the historian. Where the historian's work relates to a former age, he is necessarily confined to the reports of deceased witnesses. The contemporary historian, indeed, relies principally on the reports of living witnesses ; but he takes these reports as he finds them, and if he is satisfied that the statement of any credible witness has been recorded in a correct and authentic form (especially if the record has been made by himself, or in his own words), he adopts it, whether the witness be alive or dead. But a person who reports from memory an oral account of an original witness, or one derived indirectly from an original witness, or the contents of a letter giving such an account, is not an original witness to the historian more than to the judge.

The historian has no rules as to exclusion of evidence, or incompetency of witnesses. In his court, every document may be read, every statement may be heard. But in proportion as he admits all evidence indiscriminately, he must exercise discrimination in judging of its effect. Though he receives information of all sorts, he must refuse credit to that which is false, exaggerated, distorted, fabricated, uncertified ; he must apply his tests to its credibility ; and in this process he will derive assistance from the rules of evidence established by courts of justice. He must be guided, not, indeed, by their rules, but by the reasons of their rules ; and while he receives secondary evidence derived from repetition, and not resting on personal knowledge, he must draw a great distinction of credibility between it and primary evidence, authenticated by the observer himself.

It is most important that we should apply to historical evidence, the rules which are recognised for judicial evidence, so far as they are applicable. The rules of judicial evidence have been tried by a long, extensive, and searching experience ; and if this experience is unanimous in requiring the evidence of original witnesses, as a safeguard for truth and a protection against injustice, we ought not to hesitate in applying the same rule to historical evidence. Their applicability is often incidentally implied, in the arguments of historians upon evidence,

but it is not formally admitted.⁽³³⁾ If, indeed, the results of historians led to an immediate practical result; if the conclusion of the writer deprived a man of his life, liberty, or goods—the necessity of guiding his discretion by rules such as those followed in courts of justice would long ago have been recognised.⁽³⁴⁾

§ 7 When the testimony of the original witness has once been obtained and recorded, either by himself or others, in an authentic form, it is perpetuated so long as the written memorial of it is preserved in the original, or in a faithful transcript; and may at any time be used for historical purposes. It has, however, been maintained by Laplace, after an English mathematician,⁽³⁵⁾ that the diminution in the value of testimony, which is produced by oral repetition through a series of persons, extends to the tradition of written testimony, through a series

(33) Thus, Paley says that the doctrine as to substantial agreement, combined with variation in details, being the characteristic of human testimony, is received in courts of justice—below, § 19. See also his remarks on the analogy between the rules applicable to corroborative evidence, in courts of justice and in historical writings.—*Horæ Paulinæ*, c. 5.

(34) See J. Eisenhart, *De Fide Historicâ Commentarius*: Helmstadii, 1679. In this short essay, the question of historical evidence is treated on legal principles, and is illustrated by legal analogies. Compare Wachler, *Gesch. der Hist. Forschung*, vol. i. p. 884.

The author of the *Memoir of Sebastian Cabot* thus comments on a hearsay statement respecting the discoveries of that navigator:—'It is obvious that, if the present were an inquiry in a court of justice affecting the reputation or property of a living person, the evidence which limits Cabot to 56° would be at once rejected as incompetent. The alleged communication from him is exposed in its transmission, not only to all the chances of misconception on the part of the pope's legate, but, admitting that personage to have truly understood, accurately remembered, and faithfully reported what he heard, we are again exposed to a similar series of errors on the part of our informant, who furnishes it to us at second-hand. *But the dead have not the benefits of the rules of evidence*; and we must therefore look to the circumstances which affect its credibility.'—b. i. c. i.

(35) The hypothesis of a gradual attenuation of the strength of historical evidence by the lapse of time, appears to have originated with an English mathematician named Craig, who undertook to determine the end of the world, by the assumption that it would happen when belief in Christianity should cease: and he calculated that, after a certain time, the historical evidence of the truth of Christianity would be reduced to zero. The treatise of Craig is entitled *Theologiæ Christianæ Principia Mathematica*, auctore Johanne Craig; Londini, 1699, 4to. It is dedicated to

of generations; and it is due to his eminence to consider the arguments with which he has supported this view.

'Let us suppose (he says, in his *Essay on Probabilities*) that a fact is transmitted to us by twenty witnesses—the first transmitting it to the second, the second to the third, and so on in succession. Let us further suppose that the probability of each testimony is equal to 9-10ths: that of the fact resulting from the testimonies will be less than an eighth. This diminution of probability may be compared to the extinction in the clearness of objects by the interposition of several plates of glass; an inconsiderable number of plates being sufficient to intercept the sight of an object, which can be distinctly seen through a single plate. *Historians do not appear to have paid sufficient attention to this degradation of the probability of facts, when they are seen across a large number of successive generations; many historical events, considered certain, would be at least doubtful if they were subjected to this test.*'⁽³⁶⁾ In a later part of his essay he returns to the

Bishop Burnet, and consists of a preface and thirty-six pages. He admits (pref. p. viii) that, according to his argument, the authority of Moses and the other writers of the Old Testament would have been null at present, if it had not been revived by the coming of Christ.

At the beginning of the treatise are definitions, axioms, and an hypothesis, which are followed by propositions, demonstrated by mathematical reasoning.

A scholium (in p. 22) will give an idea of his conclusions:—'Per historicos primos intelligo eos, qui historię cognitionem ex propria observatione aut experientia deducunt. Et per exemplar primum intelligo non unum tantum, sed quotlibet exemplaria ab ipso primo historico scripta vel impressa. Jam quia historia scripta majorem longe probabilitatem habet, quam historia per vivam vocem tradita; et quia hujus probabilitas nunquam evanescit, sequitur illius etiam probabilitatem in nullo tempore dato penitus evanescere. Attamen cum continuo decreseat, necesse est ut tandem etiam illa perexigua reddatur.' He determines that the probability of the history of Christ will become evanescent in the year 3150 A.D.—p. 24.

Craig's theory, that historical evidence is enfeebled by time, is treated as absurd by Ernesti, *De Fide Historicā recte astimandā*, § 14. Freret (*Œuvres Complètes*, tom. i. p. 149) admits Craig's assumption up to a certain point: 'Cependant j'avouerai que la certitude ou la crédibilité de l'histoire augmente avec la proximité du temps dont elle parle.'—*Ib.* page 155.

36) *Essai Philosophique sur les Probabilités*, p. 15; ed. 5. Compare the counter-remarks of M. Daunou, *Cours d'Études Historiques*, tom. i. p. 20-26: 'Quelques géomètres (says M. Comte, himself an accomplished mathematician) ont même poussé la complaisance, ou la naïveté, jusqu'à tenter, à ce sujet, d'après leur illusoire théorie des chances, de lourds et

same subject. 'It remains for us (he says) to consider the influence of time upon the probability of facts transmitted to us by a traditional chain of witnesses. *It is clear that this probability must diminish, in proportion as the chain is prolonged.*'

After explaining the numerical law according to which this diminution takes place, he adds:—'*The action of time, therefore, incessantly weakens the probability of historical facts*, as it alters the most durable monuments. It may, indeed, be checked by multiplying and preserving testimonies, and the monuments which support them. Printing offers for that purpose a great resource, unhappily unknown to the ancients. Notwithstanding the infinite advantages which it procures, the physical and moral revolutions by which the surface of this globe will always be disturbed will end, *when combined with the inevitable effect of time*, by rendering doubtful, after thousands of years, the historical facts which are now the most certain.'⁽³⁷⁾

Notwithstanding the high authority of Laplace as a mathematician, it may be confidently affirmed that his reasoning, which puts on the same footing the transmission of historical evidence from one generation to another, and its repetition by one witness to another, rests on a confusion of things wholly dissimilar, and is therefore erroneous.

Where the chain of evidence consists of a number of links, each dependent on the preceding one; where each successive witness makes the account his own, and is substituted for the witness from whom he received the report of the fact—a diminution of certainty, and sometimes at a rapid progression, takes place. In this case there is untrustworthy repetition, and

ridicules calculs sur l'accroissement nécessaire de cette prétendue incertitude par le seul laps du temps; ce qui, outre le grave danger social de secondar des aberrations profondément nuisibles, en les décorant ainsi d'une imposante apparence de rationalité, a d'ailleurs offert plus d'une fois le fâcheux inconvénient de discréditer radicalement l'esprit mathématique auprès beaucoup d'hommes sensés, trop peu éclairés pour le juger directement, mais justement revoltés de tels abus.'—*Cours de Phil. Pos.* tom. iv. p. 414. M. Comte's estimate of Laplace differs from that usually received. In tom. vi. p. 465, he speaks of the 'habile charlatanisme' of Laplace.

(37) *Ib.* p. 150-7.

we are forced to rely upon a witness more or less remote from the original source. Even supposing the last witness to have been connected by a series of veracious witnesses with the original observer of the fact, we are unable to obtain their testimony, and must take the story on the credit of the last relater. Such, for example, are the reports of primitive historical events, written down from oral testimony by a later generation, and not traceable to any distinct source. Such, too, is the story of the ring, said to have been sent to Queen Elizabeth by the Earl of Essex, a tradition of which descended in the family of the Countess of Nottingham. It is only where the first links in the chain of tradition have disappeared—where, as in the case of a family, the previous generations are dead, and the living representative is alone accessible—that a diminution of credibility occurs. If the evidence of the original witness were extant, we should disregard all the subsequent repetitions, and should refer exclusively to his report. The evidence of a fact, when once properly authenticated, is not enfeebled by the number of inaccurate versions of it which may pass into circulation.

When, therefore, the evidence of an original witness to a fact has been reduced into writing, either by himself or by others, in an accurate form, it is preserved intact so long as this written memorial of it is extant. Its credibility is undiminished, and the value of the testimony is unimpaired, so long as the authentic record of it remains. Even if the account is repeated orally or in writing, with variations, and with a diminished accuracy, still, so long as the original version stands, the probability of the fact deposed to is unshaken. The history of Thucydides is as good proof of the facts mentioned in it to the present generation, as it was to the age of Alexander, or of Augustus. The character of Tiberius lives in the pages of Tacitus, and his account is as worthy of belief now as it was to the contemporaries of the Emperor Constantine or Justinian. Assuming the date of any event in remote history,—for example, of the capture of Babylon by Cyrus, or the expulsion of the Pisistratidæ from Athens,—to be fixed on authentic evidence, it

stands as an established fact, and is as certain now as it was a thousand years ago. In the present state of civilization, and of the useful arts, a written historical record is practically imperishable : it is, in literal truth,—

Monumentum ære perennius,
Quod non imber edax, non aquilo impotens,
Possit diruere, aut innumerabilis
Annorum series, vel fuga temporum.

§ 8 Let us, therefore, inquire what are the conditions for the safe preservation of historical records, and how it comes that written history escapes the uncertainty which infects oral tradition.

I. Whenever the written memorial of any fact is preserved in its original state, the credibility of its testimony is not impaired by the mere action of time. The lapse of time cannot of itself diminish the force of evidence; it can only produce this effect by destroying the materials on which the evidence is recorded. But in many cases the original memorial is preserved; as in ancient inscriptions upon stone, brass, or other durable material. Such are the inscriptions, in the arrow-headed character, on the Babylonian bricks, and on other Assyrian monuments; the hieroglyphics engraved on the remains of Egyptian architecture; and the numerous Greek and Latin inscriptions found in different parts of Asia Minor, Africa, and Europe, and belonging to different ages. Ancient coins, with their legends, are another original record of the same kind, as well as historical sculptures or paintings, such as the bas-reliefs on the column of Trajan, or the Bayeux tapestry. Ancient documents, likewise, containing the authentic records of many important events and public acts, are preserved in original in national archives. Such, for instance, is Domesday-book, the rolls of Parliament, court records, charters, and other official registers and documents kept in public depositories. Even the statues and portraits of men of past ages, when authenticated by sufficient contemporary testimony, may be considered as belonging to this class of historical memorials. By means of them we know the features

of the illustrious dead, as by means of written records we know their characters and achievements. The invention of printing, moreover, by its power of multiplying copies identical with the model, practically preserves the memorial of a historical fact in original. All copies of a historical work which is published under the superintendence of its author, virtually possess the authority of an original manuscript.

Original historical monuments, such as inscriptions, coins, and ancient charters, may be compared with the fossil remains of animals and plants, which the geologist finds embedded in the strata of the earth, and from which, even when in a mutilated state, he can restore the extinct species of a remote epoch of the globe. They are the originals which have been preserved from the action of time, and furnish to the palæontologist evidence similar to that which a coin or a sculpture furnishes to the historian.⁽³⁸⁾

Ancient buildings, also, and the remains of ancient works executed on the surface of the earth (such as the canal of Athos), serve to confirm the truth of historical accounts which record their origin or existence. The ruins of the Parthenon and of the Coliseum remain as witnesses to the truth of the contemporary accounts which describe the erection of these buildings.

Where original documents are alleged to exist, it is necessary to trace their pedigree, and to authenticate them by sufficient external evidence. Hence the importance of archives, chartularies, public libraries, and other safe places of deposit, which are under the care of trustworthy guardians, appointed and controlled by public authority.⁽³⁹⁾ When written documents

(38) 'Geology (says Sir C. Lyell) is the science which investigates the successive changes that have taken place in the organic kingdoms of nature.'—*Principles of Geology*, b. i. c. 1. In the same chapter he points out its analogy with political history. 'The analogy, however, of the monuments consulted in geology, and those available in history, extend no further than to one class of historical monuments—those which may be said to be undesignedly commemorative of former events.'—*Ibid.*

(39) On the importance of *monumenta publica*, see Ernesti, *ibid.* § 12, *sqq.*

are tendered as evidence in a court of justice, it is required by the law of England that they should be produced from their proper place of custody: and if this condition is not complied with, they cannot be read.⁽⁴⁰⁾ A similar precaution is desirable for authenticating pictures; such is, in this case, the fallibility of judgment from internal evidence, that no proof of a picture's genuineness is so satisfactory as the power of tracing it from the painter's hands to its first possessor, and thence through its successive places of deposit.

The authorship of historical and other literary works is certified by their publication. Before the invention of printing, publication must have been personal,⁽⁴¹⁾ the author himself delivered copies of his work to his friends, or deposited the manuscript in a public library, such as the Alexandrine and Palatine libraries. From these manuscripts other copies might be made, either by transcribers in the service of private individuals, or through the intervention of booksellers.⁽⁴²⁾ In

(40) The general rule is, that judicial writings and all public documents, especially such as are ancient, should be produced from their proper place of custody. The same rule applies to private instruments. Where old deeds have been produced as evidence, in cases of title, from collections of manuscripts made for antiquarian purposes, they have been rejected. They must be produced from the custody of persons interested in the estate.—Phillipps, vol. ii. p. 157. This precaution is intended to guard against forgeries. If an instrument is thirty years old, it may be admitted in evidence without proof of its execution (*ib.* p. 203). Mr. Phillipps remarks, that the danger of dispensing with the proof of execution is diminished, by the rule which requires documents to be produced from their proper place of custody (*ib.* p. 204). Old accounts are more trustworthy if produced out of the custody of the person to whom they were rendered, than out of the custody of the person who kept them.—*Ibid.* vol. i. p. 299.

(41) The rarity and expensiveness of copies of the plays of Euripides, in his own time, is proved by the anecdote in Plutarch, *Nic.* 29.

(42) The original manuscripts of the authors were sometimes extant in antiquity, and were consulted by critics and grammarians for the purpose of determining questions of orthography, or of fixing the text. Thus, Gellius (*N. A.* ix. 14, § 7) refers to persons who had inspected an autograph MS. of Virgil—'idiographum librum Virgilii'—and another person who had read a MS. of the *Georgics* corrected by Virgil's own hand (xiii. 20, § 4). He also speaks of having himself seen an ancient MS. of the second book of the *Æneid*, which had cost twenty aurei, and was believed to have been the property (or the work) of Virgil himself (*ib.* ii. 3, § 5). Manuscripts of Cicero are referred to, which had been emended

modern times, publication usually takes place through the medium of a bookseller; but as the invention of printing secures the identity of the entire impression, with the proof-sheets corrected by the author, he in fact authenticates all the copies of his own book.

§ 9 Wherever the original writing cannot be preserved or consulted, it is necessary to have recourse to a copy. Now if errors, intentional or unintentional, in the process of transcription, could be effectually prevented, the copy would be of equal value, as evidence, with the original. This, as we have seen, is the case in printing. The author, by correcting a proof-sheet, secures the accuracy of the types from which the edition is printed, and it may be assumed that every copy is the fac-simile of this original. Even if the author does not superintend the printing of his own work, he can authenticate it by his subsequent approbation. When authentic printed copies are once in existence, they can easily be reprinted without any substantial errors. The process of setting the types is not, indeed, more mechanical than the process of writing with a pen, and is more liable to error; but as, in printing, it is only necessary to secure the fidelity of one copy, from which the others are multiplied, there is a far stronger inducement to make this one copy strictly accurate, by a close comparison with the original, than in the case of manuscript copies: besides, if errors are admitted into reprints of extant books, the existence of many copies of the authentic edition affords facilities for their detection. The invention of printing, therefore, in addition to its other great advantages, has afforded an effectual security against errors of transcription, and practically perpetuates contemporary historical evidence, so long as the civilized world shall endure.

Before the invention of printing, histories and other literary

by his freedman Tiro.—Gräfenhan, *Geschichte der Klassischen Philologie*, vol. ii. § 169, n. 14. Quintilian refers to the autograph MSS. of Cicero, Virgil, Livy, and Cato the censor (i. 7, § 20, 23, 24). Lucian (*adv. Indoct.* c. 4) alludes ironically to the book-collector, whom he attacks, buying the autograph speeches of Demosthenes, or the copies of Thucydides which Demosthenes is said to have made.

works were preserved by the transcription of pœmen. The original manuscripts, issued or authenticated by the authors, and also the immediate copies of those manuscripts, have been lost : and thus, with respect to the works of the classical, especially of the early Greek writers, we rely upon transcripts very far removed from the originals.

Now, it must be acknowledged that a manuscript copy of a writing is scarcely ever identical with the original, and that the process of transcription is likely to introduce certain errors in the way of omission or alteration, and sometimes of insertion. Hence, the law of England does not allow the copy of a deed or will, or other private document, to be received in evidence, where the original can be produced.⁽⁴³⁾ With respect to public documents which it would be inconvenient to remove from their place of custody, copies are receivable ; but these must be properly examined and certified.⁽⁴⁴⁾ Similar rules exist in other systems of jurisprudence. Such is the recognised inferiority of a manuscript copy to an original, considered as evidence.

Nevertheless, it must not be supposed that the transcription of manuscripts is without its guarantees against error, or that the value of written evidence is deteriorated by copying, in the same degree that oral evidence is deteriorated by *vivâ voce* repetition. The copyist has before him a model, which he strives to reproduce with as much fidelity as he can : he has no motive to deviate from it except to save trouble, and his remuneration

(43) Phillipps, vol. i. p. 418.

(44) *Ib.* vol. ii. p. 127. As to the rules respecting the admissibility of copies of documents in the French law, see Merlin, *Repertoire de Jurisprudence*, art. 'Copie,' who quotes the following passage of Desmoulin, (*Traité des Fiefs*), on the copy of a copy :—'Exemplum exempli, quod videlicet non est susceptum de originali authentico, sed de mero exemplo originalis prætensi authentici, nullo modo probat, sicut nec testimonium de auditu, vel de auditu alieno.' This rule applies to all recent documents, in which the danger of forgery is greatest. Ancient copies are considered by the French law as equivalent to originals, and the antiquity is held as supplying the defect of proof. The same writer thus lays down the law :—'Si exemplum esset antiquum, et de facto et instrumento antiquo, plenè probabit contra omnes quantum ipsum originale probaret.'

As to the German rules respecting the difference between modern and ancient copies of documents, see Rotteck and Welcker's *Staatslexikon*, art. 'Archivrecht.'

depends on the accuracy of his work. If the transcript does not follow the original, it does not answer its purpose. The copyist does not trust to memory; he does not tell a story in his own words, professing to repeat only its substance, but he reproduces, almost mechanically, a pattern which is set for his imitation. Moreover, a copy, when made, can be verified by subsequent comparison with the original, and errors occurring in the first transcript can thus be detected and removed. In consequence of the cheapness of paper, there is now more copying (chiefly for purposes of public business and for private use) than there was even before the invention of printing; and we know, from experience, that transcription is commonly executed with great fidelity, though rapidly, and at a moderate cost. The labour of copying could not have been the chief element in the cost of an ancient manuscript—the high price of the material (evidenced by the use of palimpsests) must have been a large part of the expense.⁽⁴⁵⁾

These general considerations (which it would be out of place in a treatise such as the present to pursue into detail) prove that the faithful transmission of literary works, by successive transcripts, through a long series of centuries, has nothing improbable.⁽⁴⁶⁾ The collection and examination of the external evidence for the faithful transmission of literary works is the proper province of the philologist; the knowledge of ancient documents and manuscripts, and the determination of their

(45) 'Vester porro labor fecundior, historiarum
Scriptores: petit hic plus temporis, atque olei plus.
Namque oblita modi millesima pagina surgit
Omnibus, et multâ crescit damnosa papyro.

Juvenal, vii. 98-101.

The cost of the papyrus for writing a history is here strongly alluded to.

'Pellibus exiguis aretatur Livius ingens,
Quem mea non totum bibliotheca capit.

Martial, xiv. 190. conf. 186.

Thirty-five books remain out of 142—almost exactly the fourth part; so that the entire history of Livy would now occupy a considerable bulk of print.

(46) See this subject popularly treated in Isaac Taylor's *History of the Transmission of Ancient Books to Modern Times*, 1 vol. 8vo. 1827.

genuineness and age, has been made the subject of a separate science, entitled *diplomatics*.⁽⁴⁷⁾ In some cases, very ancient manuscripts have accidentally been preserved; as the Herculanean manuscripts, palimpsest manuscripts, the Vatican and Alexandrine MSS. of the New Testament, the Florentine MS. of the *Digest*.⁽⁴⁸⁾ Where we rely exclusively on transcripts of late date, their fidelity is checked, not only by their mutual comparison, but by ancient citations, and by the writings of ancient critics and commentators.⁽⁴⁹⁾ No one, for example, can doubt that the poems of Homer are preserved to us in the form in which they were read by Greeks of the literary age,⁽⁵⁰⁾ or that the *Æneid* is now extant in precisely the words in which it was read by the Romans of the imperial period. No one who peruses the criticism of Thucydides by Dionysius, can doubt that he had before him the identical work which we now read in print as the history of the Peloponnesian war. No one who consults the citations collected from the writings of the early Christian writers, can doubt that the four canonical gospels were read, in the second and following centuries, in the identical form in which we now read them. Besides, the care which the ancients are known to

(47) See Bernhardt, *Grundlinien zur Encyklopädie der Philologie*, p. 131. Daunou, *ib.* tom. i. p. 216. On the evidence for the transmission of ancient literary works in manuscript, Daunou, *ib.* p. 92.

(48) This MS. is probably of the end of the 6th or of the beginning of the 7th century, and therefore not much later than the time of Justinian.

(49) Much attention was paid among the ancients to the goodness of the copies from which transcripts were made; ancient manuscripts were sought, and the copies were often revised and corrected by learned grammarians.—Gräfenhan, *ib.* § 115, 144, 169, 192, 233. Slaves were also kept by the rich Romans for the purpose of transcribing.—*ib.* § 167. Ancient MSS. of Ennius are mentioned by Cicero.—*Orator*, c. 48.

As an example of the labour taken in antiquity in establishing a pure text by the collection of MSS., see the account of Origen's edition of the *Septuagint*, § 235. He was occupied thirty years in this recension, made long journeys to collect his materials, among which were six MSS. of the translation; besides which, he compared the text with the original Hebrew. Upon the transcription and correction of books under the Romans, see Bernhardt, *Grundriss der Römischen Litteratur*, p. 63 (ed. 1850).

(50) On the constitution of the text of Homer, see Gräfenhan, *ibid.* § 54. M. Daunou remarks that a collected account of the manuscripts of each ancient author is still a desideratum, tom. xiii. p. 136.

have bestowed upon verbal correction—the polish which they gave to their style—the *limæ labor et mora*, which is recommended from so many quarters, would have been a vain toil—a mere writing upon water—if the very words of the author were not to be preserved by a faithful written tradition. Is it likely that Plato's tablet (according to the well-known anecdote) should have been found after his death, with the first words of his *Dialogue on the Republic* arranged in different orders,⁽⁵¹⁾ or that Horace should have advised an author to keep a poem under revision for nine years,⁽⁵²⁾ if they had not anticipated with confidence the perpetuation of the written text, in the precise form in which it left their hands and was given by them to the world?

§ 10 The carelessness of copyists, and sometimes, perhaps, the misplaced ingenuity of grammarians, who, in revising the text, altered what they did not understand, produced verbal variations in the copies;⁽⁵³⁾ and hence, in collating the several MSS. of classical authors, different readings of the same passage often appear. These divergences are noted by critics, who select

(51) See Dionys. *de Compos. Verb.* c. 26, where the minute attention of Isocrates and Plato to diction, and to the form of their compositions, is further illustrated. Also Quintilian, x. 4, who thinks it necessary to caution against excessive correction. Compare Pliny's description of his own habits of composition: 'Itaque nullum emendandi genus omitto. Ac primum quæ scripsi, mecum ipse pertracto; deinde dnobus aut tribus lego; mox aliis trado adnotanda, notasque eorum, si dubito, cum uno rursus aut altero pensito; novissimo pluribus recito, ac, si quid mihi credis, tunc acerrime emendo. Nam tanto diligentiùs, quanto sollicitius, intendo.' —*Epist.* vii. 17, § 7, 8.

'Vos, O

Pompilius sanguis, carmen reprehendite, quod non
Multa dies et multa litura coercuit, atque
Perfectum decies non castigavit ad unguem.'

Ars Poet. 291-4.

(52) *Art. Poet.* 388. The precepts of the ancients all point to great care in composition, and polish in diction, with respect both to poetry and prose; and the practice of their best writers (as we know both from positive testimony and the character of their extant writings) was in accordance with the precepts. Horace not only recommended the *limæ labor et mora*, but practised it, as his *curiosa felicitas*—his elaborate happiness of diction—bears witness.

(53) Upon errors of transcription in ancient MSS. see Gräfenhan, *ib.* § 167. Martial has an epigram upon the errors of the scribes in making

that reading which appears to them most probable or best accredited, and thus establish the author's text. Variations of this sort, caused by unfaithful transcription, though more numerous than errors of the press, do not affect the general authenticity of the copies which have reached us. Though the meaning of particular passages may sometimes be rendered doubtful by the discrepancy of the copies, yet their general fidelity is unsuspected. In fact, their authority is increased by their substantial agreement, combined with disagreement in subordinate points ; inasmuch as it shows that they are not all derived from some common original of recent date. It is true that many ancient works have been mutilated by the destruction of parts of the manuscripts on which they were written, and have come down to us in an incomplete state : still more have altogether perished : and in this manner, much authentic contemporary history has been irrevocably lost : but these accidents are owing to the small number of copies extant, and indifference about their custody, not to infidelity of transcription.

The value of written historical evidence is further subject to be diminished by *intentional falsification*—by a process analogous to the forgery of deeds, wills, or bank-notes, or to the coining of false money. Sometimes this is effected by altering the texts of extant authors, or by interpolating passages into them : at other times, by fabricating a supposititious writing, and attributing it to some real or imaginary person.⁽⁵⁴⁾

Falsification of this sort is almost coëval with the writing of literary works ; thus, we are told that Solon inserted a verse in the second book of the *Iliad*, for the purpose of confirming the

the copies of his *Epigrams* which were sold to the Roman public ; but he puts them on nearly the same footing as a modern author would place errors of the press in a book hastily printed :—

'Si qua videbuntur chartis tibi, lector, in istis,
Sive obscura nimis, sive Latina parum ;
Non meus hic error : nocuit librarius illis,
Dum properat versus annumerare tibi.
Quod si non illum, sed me peccasse pntabis,
Tunc ego te credam cordis habere nihil.' ii. 8.

(54) As to the necessity of determining the true authors of historical works, and being on our guard against literary forgeries, Griflet, *Traité*, c. 5.

title of the Athenians to the possession of Salamis, which was disputed with them by their neighbours, the Megarians.⁽⁵⁵⁾ In the age of Greek learning, however, the fabrication of spurious writings was carried on to a considerable extent; and authentic lists, or *canons*, of authors and their works were prepared by critics, in order to guard against this deception.⁽⁵⁶⁾ Thus, writings of other and later authors became confounded with the genuine works of Hippocrates, Demosthenes, and Aristotle. The *History of the Trojan War*, attributed to Dictys of Crete, a supposed contemporary, was a forgery of the first century of our era. The epistles of Phalaris, and other epistles attributed to early Greek authors, were also the works of late grammarians: but it is perhaps doubtful whether they were intended to deceive, or ought not rather to be compared with *Dialogues of the Dead*, and *Imaginary Conversations*; nor is it manifest that the Orphic poems were*intended by their authors to be considered as the work of the ancient Orpheus.⁽⁵⁷⁾

The canon of the books of the Old and New Testament, as determined in the first centuries of the church, was intended to separate the genuine and sacred from the spurious and apocryphal writings; and to authenticate them by the solemn approbation of ecclesiastical authority.⁽⁵⁸⁾ The church was considered as having the custody and care of the written Word of God—as being the holy ark in which the Scriptures were deposited.

The prophecies of the Sibyls, the false *Acta Diurna* of Rome, the forgeries of Anniius of Viterbo,⁽⁵⁹⁾ of Gauden, Chatterton, Macpherson, and Ireland, the personations of historical characters by De Foe and many modern memoir-writers, and the

(55) *Iliad*, ii. 558, and Heyne's note.

(56) As to the canons of Greek authors, Gräfenhan, vol. ii. § 135.

(57) As to literary forgeries and frauds of different sorts in antiquity, see Gräfenhan, *ib.* § 48, 49, 50, 115, 170, 233, 236. Compare Morhof's *Polyhistor*, vol. i. p. 77, ed. 1747.

(58) As to the canon of the Old Testament, De Wetto's *Einleitung in das A. T.* § 25-9.

(59) On Anniius of Viterbo, see Daunou, tom. xi. p. 30.

manufacture of ancient inscriptions, coins and charters, afford other examples of the process in question.

For forgeries such as the criminal law deals with, the motives are strong and obvious. Moreover, the counterfeiting of signatures, and the imitation of hand-writing, is sometimes executed with so much skill as to be very hard of detection, and to elude even a careful and experienced eye. But the motives for literary frauds are weaker; and in general the imposture may be detected with comparative certainty. In the case of the *Decretals*, and the *Icon Basilike*, religious and political interests were concerned; a well-executed literary forgery may likewise arouse public curiosity, and, by attracting purchasers, be profitable to the author, like the fabrication of ancient coins and false antiques. But in such cases as those of Ossian and Rowley, the conscious pleasure of deceiving the world may be considered as the leading motive; which, though an adequate, is not, with most people, a very powerful and pressing inducement.

Literary forgeries are sometimes to be detected by external evidence, as in the case of the *English Mercurie*, believed to have been published in 1688: which imposture was discovered by the modern appearance of the print, and the comparison of the manuscript copy.⁽⁶⁰⁾ The invention of printing, however, does not, except by the publicity and literary activity which it creates, afford any peculiar security against literary frauds. They are chiefly to be detected by internal evidence; by inconsistencies, anachronisms, imitations of subsequent writers, and other marks of recent composition, such as may be seen well exemplified in Bentley's *Dissertation on the Epistles of Phalaris*, in Payne Knight's criticism of *Fourmont's Inscriptions*, and in the exposures of Ossian.

§ 11 Assuming that the conditions for the transmission of written historical evidence from one generation to another, now ad-

(60) See Watts, *Letter to Mr. Panizzi*, London, 1839. Upon the utility of literary history and the historical importance of bibliography, see Daunou, tom. xiii. p. 128-31, 139. He remarks (*ib.* p. 130) that history implies a knowledge of the historians as witnesses.

verted to, have been complied with, its credibility is not impaired by the progression of time. We may read in Thucydides the copies of the very letters which Pausanias addressed to the Persian government twenty-three centuries ago,⁽⁶¹⁾ or the correspondence which passed between Cicero and his friends more than nineteen centuries ago, without any reasonable doubt of their genuineness, or fear of inaccurate transcription. The written monuments of ancient history have, in many cases, been defaced or destroyed; but those which have escaped the ravages of time—which have not been burnt, or erased, or lost through neglect,⁽⁶²⁾ have in general descended to us in a state of integrity; they may be scanty and imperfect, but they are unfalsified.

By the means which have been described, written historical evidence is handed down to a late posterity; it thus connects one century with another, and bridges over the chasm of ages. The invention of writing overcomes time as well as space. When any statement of fact has been reduced to a written form, the paper or book in which it is contained may be passed from one person to another, may be transmitted by land or sea, and,

(61) See Grote, *Hist. of Gr.* vol. v. p. 342-364.

(62) The historical works of Herodotus, Thucydides, Xenophon, Cæsar, Josephus, and Arrian, have descended to us in a complete state, as well as the archaeological work of Pausanias. Those of Polybius, Dionysius, Diodorus, Livy, Velleius, Tacitus, Dio, Quintus Curtius, are imperfect; and of some of these we possess not more than a half, or a fourth, of the original work. The biographical collection of Plutarch is likewise incomplete. The geographical work of Strabo, and the literary miscellany of Athenæus, are also imperfect.

The difficulty of destroying all the copies of a book, even before the invention of printing, appears from an incident mentioned in Tacitus. Crematius Cordus had written a historical work, in which he had called Cassius the *last of the Romans*. This freedom of speech provoked the anger of Tiberius, and he was in consequence compelled to kill himself, which he effected by abstinence from food. Tacitus proceeds thus: 'Libros per ædiles cremandos censuere patres; sed manserunt, occultati et editi. Quo magis socordiam eorum irridere libet, qui præsentis potentia credunt extingui posse etiam sequentis ævi memoriam: nam contra, punitionis ingenio, gliscit auctoritas; neque aliud externi reges, aut qui eandem ævitiâ usi sunt, nisi dedecus sibi, atque illis gloriam peperere.'—*Ann.* iv. 35.

Fire seems to have been the chief agent in the destruction of libraries, in ancient as well as in modern times.—See Gräfenhan, vol. iii. p. 35, 53. On the fixity and permanence of written historical records, see Volney, *Leçons d'Histoire*; *Œuvres*, p. 566.

so long as the material substance of the writing is preserved, its credibility as evidence is identical and suffers no diminution, notwithstanding the number of hands through which it may travel. The tradition of written memorials from one generation to another is made with as much fidelity as their transmission from one place to another.

The perpetuation of historical evidence, in a written form, may likewise be compared with the propagation of intelligence by beacon-fires—as when Æschylus describes the news of the capture of Troy being transmitted from height to height along the coast to Argos—or by signal flags; in which cases, the signs have a conventional meaning which excludes error; or, still more, with a telegraph, which writes at a distance of space the words to be conveyed, as the historian writes his words for a distant time. By the help of written memorials, events which occurred at a remote date are approximated to our mind, as objects situate at a remote distance in space are, by the aid of the telescope, approximated to our sight.

A writing is passed from one age to another, as money is passed in commerce, without any sensible diminution of its value. It is like the soul, according to the doctrine of metempsychosis, which animates in succession several human bodies, without changing its substance or losing its identity. The vital spark is handed on, without being extinguished.

§ 12 In the preceding remarks, it is assumed that contemporary historical evidence is transmitted with fidelity to later generations by being reduced into *writing*. Much of this evidence, consisting of letters, state papers, and other documents, proceeds from the actors in the events—in other cases, the oral statements of eye and ear-witnesses are recorded by the historian, and thus preserved from oblivion. It is, however, essential to historical fidelity that the registration should be contemporaneous,⁽⁶³⁾ and

(63) On the perpetuation of evidence by writing, see Eisenhart, c. 6, 7; and on the importance of contemporary history, *ib.* c. 11. Niebuhr lays it down, that 'history ought always to bear the character of oral

that the accounts should not be obtained from the oral traditions of later generations. The fallibility of memory, as compared with writing, is a matter so notorious, and must be so often suggested to every one by his daily experience, that it needs no formal proof: it is fully recognised by our law, which never allows oral evidence of the contents of a document to be substituted for the document itself (*e. g.* a letter), when the document is in existence. Nor can oral evidence be substituted for a written conveyance or contract, but the instrument must be put in and proved.⁽⁴⁾ So fallible, indeed, is memory, that even an original

discourse.' (*Hist. of Rome*, vol. i. p. 273; Engl. trans.) The reason of this rule is not very apparent. It seems rather that history, in order to be accurate, ought always to bear the character of *written* discourse. Compare note A, at the end of the chapter.

(64) Phillipps, vol. i. p. 422, 423. Entries against interest made by dead persons in account-books, &c., are receivable in evidence. Verbal declarations to the same effect are also received. On the latter class, Mr. Phillipps observes: 'Verbal declarations may be thought of inferior weight to those written, as being more carelessly made, and being often unfaithfully reported; they are, besides, less frequently connected with any course of business.'—*Ib.* p. 310, note.

Foster, in his *Discourse of Treason*, p. 204, says that there is a great difference between words reduced into writing and words spoken: 'Seditious writings are permanent things, and, if published, they scatter the poison far and wide. They are acts of deliberation, capable of satisfactory proof, and not ordinarily liable to misconstruction; at least they are submitted to the judgment of the court, naked and undisguised as they came out of the author's hands. Words are transient and fleeting as the wind; the poison they scatter is, at the worst, confined to the narrow circle of a few hearers. They are frequently the effect of a sudden transport, easily misunderstood, and often misreported.' Again, he says: 'Hasty confessions, made to persons having no authority to examine, are the weakest and most suspicious of all evidence. Proof may be too easily procured, words are often misreported, whether through ignorance, inattention, or malice, it mattereth not to the defendant—he is equally affected in either case; and they are extremely liable to misconstruction; and, withal, this evidence is not, in the ordinary course of things, to be disproved by that sort of negative evidence, by which the proof of plain facts may be, and often is, confronted.'—p. 243.

It is certain that a manuscript, where the proof of the handwriting is sufficient, is more satisfactory evidence than the report of words spoken. A good deal, however, depends upon the nature of the evidence given by an ear-witness; for a skilful short-hand writer can take down an oral discourse with great precision. The deliberate nature of writing, as compared with speaking, must not be stated too broadly; for inconsiderate and hasty thoughts are often written, and, indeed, printed, while an oral address is not unfrequently an act of the most deliberate design. *Scribere*

witness is likely to forget, or imperfectly remember, the facts, unless he fixes them in writing while the impression on his mind is still fresh and vivid, and has not been weakened by time and new ideas. Hence the importance, for historical accuracy, of journals, notes, and registers, entered up day by day, contemporaneously with the events recorded; ⁽⁶⁵⁾ especially if controversies should *afterwards* arise with respect to the truth of the facts. The historian, as well as the lawyer, recognises the value of evidence which was in existence *ante litem motam*.

A similar recognition of the superiority of written records to oral tradition, is implied in the exclusive importance attached by all the Protestant churches to the Scriptures, or the written Word of God, as distinguished from the reports of the divine lessons said to have been handed down orally, first by the apostles, and then by the successive bishops and fathers of the orthodox or Catholic church. Although strong theoretical

est agere, is a maxim cited in our courts (see Phillipps, vol. i. p. 202); but it may be added, that often *loqui est agere*. The law of treason properly lays it down, that 'loose words, not relative to any act or design, are not overt acts of treason' (Foster, *ib.* p. 200). But words indicative of a fixed design, and intended to carry that design into effect, may be as criminal as words written (see Lord Campbell's *Lives of the Chief Justices*, c. xxiii. vol. ii. p. 144). In the business of government, the most important affairs are often transacted by words spoken, as in orders given on a field of battle, sentences of a court of justice, &c. In cases of this kind, Horace's dictum applies—'Semel emissum volat irrevocabile verbum.' Such oral directions would, however, soon be forgotten, if a written record were not made of them at the time. As to the distinction between words spoken and writings, with respect to the wideness of the circle within which they act, it is to be observed that a manuscript writing is not likely to reach so many persons as spoken words. The remark of Foster as to the wide diffusion of the poison applies only to the publication of *printed* writings; and speeches addressed to a public assembly, though at first confined to the members of that assembly, are likely to be reported in newspapers, and thus circulated in print, by persons who do not share in the designs of the speaker.

(65) Concerning the *procès-verbaux* of public proceedings, considered as historical testimony, see Daunou, *ib.* tom. i. p. 253.

Concerning the history of the conquest of Mexico, by Diaz, one of the companions of Cortes, Mr. Prescott remarks thus: 'Diaz did not compile his narrative till some fifty years after the conquest, a lapse of time which may excuse many errors, but must considerably impair our confidence in the minute accuracy of his details. A more intimate acquaintance with his chronicle does not strengthen this confidence.'—*Hist. of Conq. of Mexico*, b. 3, c. 5, vol. i. p. 439, n. Compare the note at the end of b. 5, c. 7, upon the historical character of Diaz.

arguments may be adduced in favour of an extra-scriptural tradition, as a rule of faith,⁽⁶⁶⁾ the Protestants wisely decided the controversy, by assuming the practical test of an exclusively written authority.

Mere words are, in their nature, fleeting and evanescent ; and historical accounts, committed to the exclusive custody of popular memory—handed down by uncertain persons, without any obligation of accuracy, or sense of responsibility, or remuneration for their trouble, and not fixed by any artificial process—even if true at first, are always disfigured, mutilated, incrustated with additions, or otherwise altered.⁽⁶⁷⁾ It need scarcely be remarked that historical accounts, derived from oral traditions which have descended from one generation to another, acquire no credibility from being reduced into writing. The only effect of reducing them into writing is to prevent their further metamorphosis, and to fix them in their actual form. Hence, if we read, for example, in Herodotus⁽⁶⁸⁾ an account of early events in Assyria, or Egypt, which he had

(66) See Klee, *Katholische Dogmatik*, vol. i. p. 271; and compare Gieseler, *über die Schriftlichen Evangelien*.

(67) Speaking of the first centuries of Rome, Livy says :—' *Parvæ et raræ per eadem tempora littæræ fuere, una custodia fidelis memoriæ rerum gestarum.*'—vi. 1.

Lucretius, in his sketch of the progress of civil society, describes history as subsequent to the use of writing—

Carminibus quum res gestas cæpere poetæ

Tradere, nec multo prius sunt elementa reperta.

Propterea, quid sit prius actum, respicere ætas

Nostra nequit, nisi quæ ratio vestigia monstrat.—V. 1443-6.

' In disciplinis propriè dictis minus necessaria est scriptura, quia vivâ voce, quasi de manu in manum, tradi possunt: quod de historiis non æque dici potest: quippe quæ circa singularia versentur: hæc vero infinita sunt, eoque memoriâ conservari non possunt.'—Vossius, *Ars Hist.* c. 5.

(68) Herodotus made it a principle to write down in his history what he heard on the spot, without implying any belief in the stories he repeats (ii. 123). He distinguishes (*ib.* c. 99) between the things in Egypt which he described from his personal observation and knowledge, and those which he heard from the natives. The author of the treatise, *De Syria Dea*, in Lucian's works, divides his account of the temple at Edessa into the things which he saw, and the things which he heard from the priests: *καὶ τῶν ἀπηγγέμαι, τὰ μὲν αὐτοψίῃ ἔμαθον, τὰ δὲ παρὰ τῶν ἱερέων ἔδαν, δόξα ἔστω ἐμὲν περὶ ἑτέτερα ἐνὶ ἱστορίῳ*—c. i. With regard to the latter class of statements, their evidence must be known before they can be accepted as true.

received from native priests and other informants, it is necessary that we should know whether these accounts were derived from contemporary written records, before we can safely treat them as worthy of credit. The internal probability or improbability of the events themselves is undoubtedly an important consideration; but the most probable event cannot be received as history without adequate external testimony.

All oral tradition, whether by contemporary rumour, or from one generation to another, is unfaithful, where each narrator expresses the story in his own language. The only case in which oral tradition is tolerably faithful, is where the memory is assisted and checked by a *set form of words*, which is learned by heart; especially if it be in a *metrical form*.⁽⁶⁶⁾ It is conceivable, for instance, that a form of prayer might be faithfully preserved by oral tradition alone for many generations. We are told by Caesar that the Druids learned by heart a great number of verses, which contained the secrets of their religion, and that they sometimes passed twenty years in committing these to memory.⁽⁷⁰⁾ The Druids enjoyed an exemption from taxes and military

(66) Col. Mure remarks that prose compositions cannot be transmitted by the aid of memory alone; and that this mode of tradition is only possible in the case of rhythmical compositions.—*Hist. of Lit. of Greece*, vol. i. p. 146.

(70) 'Magnum ibi numerum versuum ediscere dicuntur. Itaque annos nonnulli vixenos in disciplinâ permanent; neque fas esse existimant ea litteris mandare, quum in reliquis fere rebus, publicis privatisque rationibus, Græcis utantur litteris. Id mihi duabus de causis instituisse videntur; quod neque in vulgum disciplinam efferri velint, neque eos qui discant, litteris confisos, minus memoriæ studere, quod fere plerisque accidit, ut, præsidio litterarum, diligentiam in perdiscendo ac memoriam remittant.'—*De B. G.* vi. 14.

The verses which Tacitus describes as the only historical memorial known to the ancient Germans were doubtless committed to memory, and so preserved: 'Celebrant carminibus antiquis (quod unum apud illos memoriæ et annalium genus est) Tuisconem deum, &c.'—*Germ.* c. ii. Where Lipsius cites Eginhart (in *Vita Caroli Magni*, c. 29), 'Barbara et antiquissima carmina, quibus veterum regum actus et bella canebantur, scripsit, memoriæque mandavit.'—Compare Gibbon, *Decl. and Fall*, c. 45.

The histories, poems, and laws contained in six thousand verses, said by Strabo (iii. 1, § 6) to have been extant among the Turdetani, a tribe in Spain, have a very suspicious appearance.—See Niebuhr, *Hist. of Rome*,

service, and were thus remunerated for the time and labour which they bestowed upon this duty. A similar explanation applies to the most remarkable example of faithful oral tradition; namely, the preservation of the poems of Homer. How long the *Iliad* and *Odyssey* were perpetuated by mere recitation is uncertain; but many generations of singers and rhapsodists must have passed away before they were reduced into writing. These reciters, however, doubtless made a profession or trade of reciting; the bard is classed by Homer himself with other craftsmen;⁽⁷¹⁾ and they undoubtedly derived their subsistence from the remuneration for this service. Even in the fifth century B.C., when the art of writing had ceased to be a rarity, many thousand persons were said to be maintained by the recitation of Homer.⁽⁷²⁾ Ballad-poetry—such as that of Spain,⁽⁷³⁾ England, Scotland, and Germany—was handed down for a time in a similar manner, by persons who received some reward for their recitation; on the other hand, the preservation of Ossian's poems for so many centuries, without any adequate motive for their commission to memory, is (as Mr. Payne Knight has remarked) an impossibility.⁽⁷⁴⁾

vol. i. note 417, who corrects *ἐπῶν* for *ἐρῶν*. Compare the remarks of Plutarch (*Num.* 22) on the oral tradition of secret doctrines among priests.

'The Moors are also in the habit of rhyming and singing the history of any extraordinary event. Some have supposed that this custom has been introduced among polished nations from political motives, to amuse the people and make them laugh, when they might otherwise become too serious; but it is much more natural to conjecture that, originally, the end of such rhymes was information, and the preserving of historical events in the memory of a multitude of citizens who had not learnt to read.'—Chenier's *Morocco*, vol. i. p. 229; Engl. tr.

(71) *Od.* xvii. 383-5.

(72) According to Plutarch, Xenophanes of Colophon complained to Hiero I. that he could only afford to keep two slaves. Hiero replied that Homer, whom Xenophanes censured, though dead maintained more than ten thousand persons (*Reg. et Imp. Apophth. Hier.* § 4). It does not appear to be implied that the reciters of Homer were *slaves*. The allusion is to the censure cast upon Homer by Xenophanes, for his mode of representing the gods.—See Grote, vol. i. p. 493-6. Clinton, *Fest. Hell. ad Ann.* 477.

(73) The early Spanish ballads were preserved at first by oral tradition.—Ticknor's *History of Spanish Literature*, vol. i. p. 109.

(74) *Prolog. Hom.* § 38. 'Among the common class of mankind, it is observed by Mallet that a son remembers his father, knows something

Even in the peculiar system of perpetuating the memory of the past which existed in ancient Mexico, oral tradition was assisted, and partly fixed, by written symbols. The picture-writing of the Aztecs was employed for the preparation of rude and imperfect annals; but the hieroglyphical notation did not suffice to describe the entire series of events, and accordingly a certain class of the priests devoted their time to learning the full signification of these abbreviated marks, and afterwards expounded them to the uninitiated.⁽⁷⁵⁾ In this manner, an imperfect system of written records was cked out by oral tradition, to which, at the same time, it served as a guide and a support. A similar though more imperfect process was used for the same purpose by the ancient Peruvians.⁽⁷⁶⁾

When the precise words of a traditionary account are not fixed by some metrical or rhythmical aid to the memory, the periodical recurrence of an anniversary, or of some religious rite, and even the permanence of some legal form or institution, may serve to stereotype an oral tradition, and to preserve it from the licence of imagination or the distortions of forgetfulness. Thus, a code of laws may perpetuate the name of its author; and com-

about his grandfather, but never bestows a thought upon his more remote progenitors. The same argument has always convinced the learned, that poems preserved upwards of 1500 years by oral tradition was a fiction utterly unworthy of credit.—Laing, 'Dissertation on Ossian's Poems,' *Hist. of Scotland*, vol. iv. p. 439, ed. 1819, who cites on the same subject a letter from Hume to Gibbon, in Gibbon's *Mem.* vol. i. p. 149. The passage of Mallet is in his *Northern Antiquities*, c. 2.

(75) Prescott's *History of the Conquest of Mexico*, b. i. c. 4, vol. i. p. 88; ed. 8vo.

(76) 'Annalists were appointed in each of the principal communities, whose business it was to record the most important events which occurred in them. Other functionaries of a higher character—usually the amautas—were entrusted with the history of the empire, and were selected to chronicle the great deeds of the reigning inca, or of his ancestors. The narrative, thus concocted, could be communicated only by oral tradition; but the quipus served the chronicler to arrange the incidents with method, and to refresh his memory. The story, once treasured up in the mind, was indelibly impressed there by frequent repetition. It was repeated by the amautas to his pupils; and in this way history, conveyed partly by oral tradition, and partly by arbitrary signs, was handed down from generation to generation, with sufficient discrepancy of details, but with a general conformity of outline to the truth.'—Prescott's *History of the Conquest of Peru*, vol. i. p. 111. The Peruvian quipus were knotted cords, and, as a contrivance for representing ideas, were very inferior even to the picture-writing of the Aztecs.—*Ib.* p. 109, 112.

memorative festivals may serve as a nucleus, round which the scattered fragments of tradition are, for a time, collected and kept at rest.⁽⁷⁷⁾ The public acts of a government may, by recognising certain facts and relations, prevent them from passing into oblivion. Thus, if there had been no cotemporary history in the age when the American colonies of England were founded, the memory of the colonial tie would have been kept up by the public acts of the imperial and provincial governments; first, by the sending of governors, and the exercise of authority and protection on the part of the mother-country, and, next, by the war of independence. The similarity of language, religion, manners, and names of places, would have served as a further reminiscence. We shall have occasion to revert presently to the subject of *mnemonic facts or events*, in connexion with the rules of evidence applicable to that period of history, in which oral traditions are mixed with cotemporary records.⁽⁷⁸⁾

Anything permanent and continuous in its nature, as an inanimate object, either of art or nature, may serve as a firm ground in which the floating elements of oral tradition may for a time be anchored. Thus, a building, a statue, or a picture, may, by the curiosity which it excites, perpetuate the story of its origin; and even a tree, remarkable for its size and antiquity, may serve as a memorial of some event with which it has been associated. A tree lives through many generations of men, and thus acquires a resemblance to an artificial monument; hence, like the oak described by Lucan, it may be used as a sort of archive for ancient relics:

Frugifero quercus sublimis in agro,
Exuvias veteres populi, sacrataque gestans
Dona ducum.

(77) Dionysius declares his wish to confirm the accounts of native Roman historians, by a reference to subsisting customs and institutions. At the head of such memorials, in point of importance, he places religious rites and ceremonies; for both Greeks and barbarians, he says, preserve these for the longest time, and are deterred from innovating in them, by the fear of divine punishments.—*Ant. Rom.* vii. 70. Compare Ovid, *Fast.* iv. 203, with respect to a religious legend—

‘Pro magnâ teste vetustas
Creditur: acceptam parce movere fidem.’

A similar expression is used in *Met.* l. 400.

(78) Below, § 19.

On the other hand, ancient buildings and other works of art not unfrequently outlive the true tradition of their origin; and when the truth is forgotten, fiction is ready to supply the void, and to furnish a legendary account for the satisfaction of the public interest. On such occasions, the invention of the *cicerone* is never at a loss to fill the chasms left by the infidelity of popular memory.⁽⁷⁹⁾

Written memorials, on the other hand, are distinguished by permanence and solidity, as contrasted with the fugacity and transitoriness of oral tradition. They have a monumental character, as opposed to the perishableness of mere speech.⁽⁸⁰⁾ Hence the ancient poets, before the invention of printing, and while their works could only be preserved in manuscript copies, nevertheless anticipate confidently a perpetuity of posthumous fame. Ovid thus predicts that his *Metamorphoses* will last through all ages :

Jamque opus exegi, quod nec Jovis ira, nec ignis,
Nec poterit ferrum, nec edax abolere vetustas.

And again—

Mihi fama perennis
Quæritur, in toto semper ut orbe canar.⁽⁸¹⁾

Herodotus, too, in the short proem to his history, declares that he wrote it in order that the deeds of men might not be effaced by time;⁽⁸²⁾ while Pliny speaks both of the historian and the person whom he celebrates being immortalized by his work.⁽⁸³⁾

In early times, accounts of events were transmitted by word of mouth, not only by tradition from seniors to juniors, but also

(79) See below, ch. x. § 6.

(80) Speaking of the Egyptian hieroglyphics, Ammianus Marcellinus says: 'Voluerum enim ferarumque, etiam alieni mundi, genera multa sculptentes, ad ævi quoque sequentis ætates ut patrumque vulgatus perveniret memoria.'—xvii. 4.

(81) See the entire elegy, in *Amor.* i. 15.

'Ergo cum silices, cum deus patientis aratri
Depereant ævo, carmina morte carent.'

(82) ὥς μήτε τὰ γενόμενα ἐξ ἀνθρώπων τῷ χρόνῳ ἐξίτηλα γίνηται, μήτε, &c.

(83) 'Mihi pulcrum imprimis videtur non pati occidere quibus æternitas debeatur, aliorumque famam cum suâ extendere.'—*Epist.* v. 8. § 1

among contemporaries. In a country which has no newspapers and no post, news must travel by oral repetition, and must be passed from mouth to mouth, in every direction, from the place where the event has occurred. Manuscript letters, sent by a private conveyance, would not afford much information. This was the state of things in antiquity, and is still the state of things in the Oriental countries. Where there are no newspapers, exaggerated, distorted, and wholly false rumours must fly about a country in all directions, particularly at a season of distress and alarm; and few people can have any means of ascertaining the truth.⁽⁸⁴⁾ On the other hand, a printed newspaper affords to all its readers the same intelligence; everybody is independent of oral repetition, and is able to draw his information from the fountain-head; and if premature or inaccurate reports are diffused by newspapers, the contradiction is easy and rapid.

Many popular rumours, particularly those which are connected with some strong feeling, are wholly false as expressive of matter of fact. Their growth and circulation may prove the existence of a certain sentiment, but not the truth of the story, unless it can be traced to a credible source. Popular fame, like anonymous information, may awaken suspicion and suggest inquiry; but unless the supposed hearsay is confirmed by the testimony of original witnesses, it is undeserving of credit. In many cases, if oral reports are traced to their origin, it is found that they have sprung from imagination, not from observation: that their source is subjective, not objective.

§ 13 We have now ascertained what are the principal canons of evidence to be observed by the contemporary historian. We

(84) 'It has been frequently remarked (says Walter Scott), that the tidings of important events fly with a celerity almost beyond the power of credibility, and that reports, correct in the general point though inaccurate in details, precede the certain intelligence, as if carried by the birds of the air.'—*Old Mortality*, vol. ii. c. 11; ed. 1830. Reports of this sort are passed on by word of mouth. Upon popular fame, as an element of history, see Daunou, tom. vii. p. 330. Compare Grote, *Hist. of Gr.* vol. v. p. 260, note.

have seen that he must, like a court of justice, or like a describer of natural phenomena, rely upon the evidence of original witnesses for facts to which his own experience does not extend. We have likewise seen that contemporary written accounts are transmitted by a faithful tradition from one generation to another, and that thus historical evidence is perpetuated. So that, where an authentic contemporary record of a former age exists, succeeding ages can peruse it without any diminution in its certainty. In this manner, and in this manner alone, can historical truth be established.

It might seem superfluous to insist on so indispensable an axiom, as that history ought to be true. From the very dawn of history, all historical writers have concurred in recognising truth as an indispensable element in their narration,⁽⁸⁵⁾ however they may have varied in its conscientious pursuit, and in the fitness of the means taken for securing its attainment. Truth is, indeed, necessary to all observation for scientific purposes. If the observations of the astronomer are incorrect, or are recorded incorrectly, they are devoid of value; and the same is the case with all other observations in the physical sciences, whatever may be the source of error. But it unfortunately happens that, though the maxim as to the importance of historical truth is admitted in theory, there is scarcely any which is more frequently violated in practice.

In the first place, there is often intentional perversion of truth or (what is sometimes the same) its intentional suppression, prompted by motives of personal interest. Such is frequently the case with historians whose works partake of the character of an autobiography: such as *Cæsar's History of the Gallic and*

(85) See some of the principal passages on this subject in the author's *Essay on Authority in Matters of Opinion*, p. 151. Compare Hecateus, *Fragm.* 332, ed. Didot; Dionys. *de Thucyd. Jud.* c. 8; *Ant. Rom.* i. 1. Truth is necessary to history, Vossius, *Ars Historica*, c. 9; and on the causes of historical falsehood, *ib.* Upon the importance of truth in history, Daunou, tom. xiii. p. 36; and Mascardi, *dell' Arte Istoricæ* (Rome, 1636), Trattato ii. p. 108. See Griffet, *Traité, &c.* c. 1: 'Que la vérité est l'âme et le fondement de l'histoire.'

Civil Wars, and Napoleon's *Memoirs of his Campaigns*.⁽⁸⁶⁾ Personal and family vanity is also, as well as interest, a frequent cause of the distortion of historical truth. Thus, Cicero declares that the funeral panegyrics of distinguished men, and the family memoirs, had contributed to falsify the Roman annals, and to fill them with unreal triumphs and honours.⁽⁸⁷⁾ The love of the marvellous is another disturbing force in the same direction; especially if the supposed fact, as in the case of travellers to distant regions, be difficult of verification.

The spirit of party, both civil and religious, is a further and most powerful incentive to the fabrication of fictions, the distortion of fact, or the repetition of highly-coloured and ill-authenticated reports, tending either to unjust praise or unjust blame. Some histories are throughout mere pleadings on behalf of a particular party or sect; others are tainted with national antipathies. Thus, in the middle age there were Guelf histories and Ghibelline histories of the affairs of the emperor and the pope;⁽⁸⁸⁾ afterwards there were Catholic histories and Protestant histories of the Reformation, and of other events in

(86) Upon the objections to the composition of history by one of the principal actors in the events narrated, see Cic. *Ep. ad Div.* v. 12, § 4; Vossius, *Ars Historica*, c. 12; Rühls, *Propädeutik*, p. 237; Volney, *Leçons d'Histoire*; *Œuvres*, p. 565. On the other hand, Montaigne considers these the only trustworthy contemporary histories: 'Les seules bonnes histoires sont celles qui ont été écrites par ceux mêmes qui commandoient aux affaires, ou qui étoient participants à les conduire, ou au moins qui ont eu la fortune d'en conduire d'autres de même sorte.'—*Essais*, liv. ii. c. 10. Compare the analysis of the historical character of *Josephus*, by Jost, *Geschichte der Israeliten*, vol. ii. p. 55, anhang.

(87) After speaking of the mortuorum laudationes, he proceeds thus:—'Ipse familie sua quasi ornamenta ac monimenta serrabant, et ad usum, si quis ejusdem generis occidisset, et ad memoriam laudum domesticarum, et ad illustrandam nobilitatem suam, quanquam his laudationibus historia rerum nostrarum est facta mendosior. Multa enim scripta sunt in eis, quae facta non sunt; falsi triumphi, plures consulatus, genera etiam falsa, et a plebe transitiones, cum homines humiliores in alienum ejusdem nominis infunderentur genus.'—*Brut.* c. 16. Compare Livy, viii. 40: 'Vitiatam memoriam funebribus laudibus reor, falsisque imaginum titulis, dum familia ad se quaeque famam rerum gestarum honorumque fallente mendacio trahunt. Inde certe et singulorum gesta et publica monumenta rerum confusa.' Concerning the falsehood of Roman family memoirs, see Wachsmuth, *Alt. Gesch. des Röm. Staats*, p. 12.

(88) See V. Raumer's *Geschichte der Hohenstaufen*, vol. vi. p. 657; ed. 2.

which religious questions are involved. There are whig histories and tory histories of England; and, generally speaking, every historian has some known political or religious bias: so that the prudent reader takes all his statements and reflections with an allowance for this predilection. Thus, Voltaire and Gibbon are known to be unfavourably disposed to the Christian church, and their histories are read with a due allowance for this disposition. Hume is known to be inclined to monarchical or despotic, Sismondi to popular or republican government, and their histories are estimated accordingly.⁽⁸⁹⁾ National

(89) The two following passages, one in general terms, the other in an example, describe the process by which a partial historian distorts truth:—

‘When the business of the historian is no longer merely to make his readers acquainted with the facts he has ascertained, as they really occurred in past time, but also to furnish him with the opinions and moral impressions to which they should give rise, it is plain that he has it in his power, in most cases, to give any colour his own prejudices and passions may suggest to every delicate or important transaction he records, and thus to dictate to posterity, with almost absolute authority, the sentiments they should entertain of their ancestors. Even if his partialities are not strong enough to suborn his integrity, they will generally be sufficient not merely to direct or misguide his eloquence, but substantially to distort his representations of the truth. He will not only lend all the colours of his style to enhance the merits, and palliate the crimes of his favourites, and to aggravate those of their opponents, but he will slur and abridge in his narrative the facts which it gives him pain to record, while he expatiates with graphic and circumstantial accuracy on those which seem to lend a triumph to his peculiar opinions. He will, perhaps unconsciously, be careless and negligent in investigating the details which tend to discredit the theories to which he is partial, and collect with malicious industry all the scattered intimations which seem to support them. In this way, he will often give what are truly exceptions to the general rule, as illustrations of its actual tendency; or represent the whole scanty facts which the most anxious research could discover in favour of his conclusions, as instances taken carelessly and at random from an immense multitude of still stronger examples. Above all, when he comes to describe and estimate the views and motives by which, at any critical period, the different parties in the state were actuated, he will not only bring prominently forward the prejudices or follies by which the wisdom or virtue of one side were alloyed, while all these debasing elements are kept out of sight in his representations of the other—but will lend to his favourites all the finer views and plausible apologies which his own ingenuity and the improved sagacity of his age can suggest for persons in their situation, without the least evidence of their having been actually entertained by those to whom they are ascribed; while their adversaries are left without addition or assistance to any crude and improvident exposition of their reasons which they may have happened to put on record.’—*Edin. Rev.* vol. xl. p. 96; art. on ‘Brodie’s Constitutional History.’

‘Hume is an accomplished advocate. Without positively asserting

feelings likewise influence the writers of history : thus, if we had an account of the Punic wars by a Carthaginian historian, or an account of Cæsar's campaigns in Gaul from a native writer, we should probably find many events represented in a different light from that in which they are placed by the Roman narrators.⁽⁹⁰⁾ In like manner, the Spaniards have been the sole historians of their conquest of Mexico. If there had been an Aztec record of the conduct of Montezuma, and of his treatment by the invaders, perhaps it might have preserved the memory of many facts which the Spanish writers suppressed.⁽⁹¹⁾ We know that the accounts of modern campaigns and military operations almost always differ, both as to the movements and the results, according as the writer belongs to one or the other of the contending nations.⁽⁹²⁾

much more than he can prove, he gives prominence to all the circumstances which support his case ; he glides lightly over those which are unfavourable to it ; his own witnesses are applauded and encouraged ; the statements which seem to throw discredit on them are controverted ; the contradictions into which they fall are explained away ; a clear and connected abstract of their evidence is given. Everything that is offered on the other side is scrutinized with the utmost severity ; every suspicious circumstance is a ground for comment and invective ; what cannot be denied is extenuated, or passed by without notice ; concessions even are sometimes made, but this insidious candour only increases the effect of the vast mass of sophistry.—*Ed. Rev.* vol. xlvii. p. 359 ; art. 'History.'

Ranke thus characterizes Sarpi and Pallavicini, the historians of the Council of Trent : 'Both of them are complete partisans, and are deficient in that spirit of a historian which seizes upon circumstances and objects in their full truth, and brings them distinctly to view. Sarpi certainly had the power to do so, but his only aim was to attack ; Pallavicini had infinitely less of the requisite talent, and his object was to defend his party at all hazards.'—*Hist. of the Popes*, vol. iii. app. p. 80 ; transl.

(90) On the partiality of Philinus and Fabius, in their accounts of the first Punic war, see Polyb. i. 14, § 3 : 'According to Fabius (he says), everything was done by the Romans with fortitude, wisdom, and honour ; according to Philinus, it was all the very reverse.' Plutarch (*Per.* 28) accuses the historian, Duris the Samian, of exaggerating the sufferings inflicted on his countrymen by Pericles and the Athenians. Ulrici (p. 103) remarks, that the ancients thought it a duty to pervert historical truth for patriotic purposes, and censured those who related facts dishonourable to their own country.

(91) See Prescott's *Hist. of the Conquest of Mexico*, vol. ii. p. 36, (b. 3, c. 7). On the influence of national prejudice in history, see Rühs, *ib.* p. 239.

(92) Speaking of historians, Seneca says :—'Quidam incredibilium relatu commendationem parant, et lectorem aliud acturum, si per quotidiana duceretur, miraculo excitant. Quidam creduli, quidam negligentes sunt : quibusdam mendacium obrepat, quibusdam placet. Illi non evitant, hi appetunt.'—*Natur. Quæst.* vii. 16.

In cases of this sort, it is possible to take two historians on the opposite sides, to treat them as advocates, and to attempt to perform for oneself the office of judge.⁽⁹³⁾ Such a comparison, and weighing of conflicting statements and opinions, is, however, a laborious process; it requires more time than the student of history can or will always bestow upon the subject; and even if he has the candour or patience to collate the opposite versions of partisan historians, it does not follow that he will be able to discover the truth. Historical truth can rarely be formed upon the principle of a compromise—by abating a little from the pretensions of each, and inventing something new, different from both accounts. It sometimes happens that the truth is unlike *both* the false stories.

Plutarch remarks that historical truth is difficult of attainment; for those who live after the time are unable, by the failure of memory, to learn how the events happened, while contemporary writers pervert the truth, some from envy and hostile feeling, others from favour and adulation.⁽⁹⁴⁾ The testimony of a partial witness is, indeed, always suspicious, but contemporary evidence, however defective, is almost always preferable to hearsay, or traditionary accounts.

There is likewise much unintentional misrepresentation of facts in histories: inaccuracy of statement arises from the dislike of the trouble requisite for ascertaining the truth.⁽⁹⁵⁾ Historical writers often take what is nearest their hand, without examination. Contemporary annalists accept popular rumours, unchecked and uncertified; compilers repeat assertions of previous writers, without verifying references, and tracing the chain of evidence through each of its links. Hence, error is propagated by successive transcriptions of a statement originally incorrect, and the original error is often increased during the process, as a

(93) This mode of reading history is illustrated in the *Ed. Rev.* vol. xlvii. p. 361.

(94) *Pericl.* c. 13.

(95) Curtius, in reference to a discrepancy of statements about a fact in the history of Alexander, remarks:—'Tanta componentium vetusta rerum monumenta vel securitas, vel, par huius vitium, credulitas, fuit.—ix. 6.

stone set rolling down hill accelerates its velocity. When the evidence is deficient or obscure, the historian often fills up chasms in the narrative from mere conjecture, and according to some bias or preconceived theory of his own; and this ungrounded guess then takes its place among averred facts, to be repeated by subsequent writers without examination.⁽⁹⁶⁾ At other times, the desire of enlivening his narrative and amusing his reader induces the historian of easy faith to introduce some romantic incident, some pointed saying, some striking contrast of situation, some stroke of poetical justice, upon a very slight foundation of positive evidence. Popular rumour always inclines to the dramatic and picturesque version of a story; it is the duty of the historian to prune off all such ornamental excrescences, and to reduce his entire narrative to a severe standard of truth.⁽⁹⁷⁾

(96) Thucydides remarks that the strictness with which he had adhered to truth, and excluded fable, rendered his history less agreeable to hear [or, as we should say, to read] than those of his predecessors: *kai éς μὲν ἀπράσσει ἴσως τὸ μὴ μυθῶδες αὐτῶν ἀρεσιώτερον φαίνεται*, i. 22. Dionysius contrasts the history of Thucydides with preceding histories, in this respect:—‘Neither did he admit anything fabulous into his work, nor use it for deceiving and surprising the multitude; as all the historians before him had done, describing certain evil spirits rising out of the ground, in woods and glens; amphibious naiads emerging from the infernal region, and swimming through the sea, with bodies partly human and partly animal; beings such as these holding communication with men; demigods, born of divine and human parents, together with other accounts, incredible according to our notions, and full of absurdity.’—*Id.* c. 6.

(97) According to Herodotus, Xerxes, after the battle of Salamis, retreated by land with a large army, and crossed the Hellespont without opposition in his fleet, which there joined him. Juvenal’s account thus dramatizes the event:—

‘Ille tamen qualis rediit, Salamine relictâ,
In Corum atque Eurum solitus sævire flagellis
Barbarus’—

‘Sed qualis rediit! nempe unâ nave, cruentis
Fluctibus, ac tardâ per densa cadavera prorâ.’

Sat. x. 179-86.

Compare Cic. *Brut.* c. 11, upon the stories invented to render the deaths of Themistocles and Coriolanus interesting—‘Quoniam concessum est (says Atticus, one of the interlocutors) rhetoribus ementiri in historicis, ut aliquid dicere possint argutius.’ Speaking of the fiction as to Thucydides poisoning himself with bull’s blood, given him in a goblet, he adds: ‘Hanc enim mortem rhetorice et tragice ornare potuerunt; illa mors vulgaris nullam præbebat materiem ad ornatum.’

See Livy’s account of the death of Coriolanus, ii. 40, with Niebuhr’s comments on the manner in which it was embellished and surrounded with

Political history, it must be remembered, is, as compared with the observations made for the physical sciences, subject to this peculiar disadvantage, that it is in itself *amusing*. A collection of observations made for a physical science is in general in the highest degree unattractive. Sometimes it consists merely of numerical data; at other times it is merely a dry catalogue or enumeration of phenomena, which require a laborious study in order to appreciate them, and can never be read for amusement. But almost every connected narrative of facts relating to mankind, their deeds and sufferings, is interesting: every such recital awakens sympathy and emotion in our breasts; and hence, as Pliny the Younger has remarked, '*historia quoquo modo scripta delectat.*'⁽⁹⁸⁾ Accordingly, the historian is tempted to

tragic interest, vol. ii. p. 273. The various fables respecting the death of Alexander the Great are collected by Arrian, *Anab.* vii. 27.

The fiction of 'Date obolum Belisario' has obtained currency (says Gibbon) 'as a strange example of the vicissitudes of fortune.'—*Decl. and Fall*, c. 43. Pope's celebrated description of the death of the second Duke of Buckingham—

'In the worst inn's worst room,' &c.,

is likewise a romance which 'points a moral;' but has no resemblance to the truth.

Ast (*Platons Leben und Schriften*, p. 27) shows the uncertainty of many anecdotes relating to eminent men, which are to be found in ancient writers. He remarks that this uncertainty is greater in the case of philosophers, inasmuch as their lives were more withdrawn from public notice, and therefore offered more scope to the imagination of the biographer or anecdotist.

Ranke makes the following remarks upon the anecdote of Sixtus V. simulating feebleness before his election, and throwing away his crutch as soon as he was elected, which had been also told of Paul III.:—'It is striking how history, when resting on the memory of men, always touches on the bounds of mythology. The delineations of character become more sharp and vigorous; they approach in some respects to an ideal which the imagination can lay hold of; events are painted in a more marked and distinct manner; accessory circumstances and causes are forgotten or neglected. By such a process alone do the demands of the fancy appear capable of being satisfied. At a later period comes the scholar, who wonders how such false notions could ever have been embraced, does his best to uproot errors, and at last finds out that this task is not so easy. The reason may be convinced, but the imagination is not to be subdued.'—*History of the Popes*, vol. iii. app. p. 122, transl.

A dramatic scene has been described, of the Speaker, accompanied by several members, appearing in the Court of Queen's Bench in person, and summoning the Chief Justice to the bar of the House of Commons, in the privilege conflict of 1704; whereupon the Chief Justice threatens to commit him to prison; but the whole account is stated by Lord Campbell to be fabulous.—*Lives of the Chief Justices*, c. 24, vol. ii. p. 164.

(98) *Epist.* v. 8, § 4. The reason which he assigns for this remark is not so satisfactory as the remark itself is true: '*Sunt enim homines natura*

become a mere artist, and to study chiefly how he may stimulate the feelings or please the taste of the reader, forgetful of his office as a registrar of true facts for purposes of instruction.⁽⁹⁹⁾

§ 14 Thus far we have considered how history is liable to intentional falsification from motives of interest or vanity, or to the unintentional perversion which is engendered by negligence, acquiescence in popular rumours, and similar causes of inaccuracy. There are, however, other ways of corrupting the plain truth of historical narration. History may be knowingly blended with fiction, for the purpose of conveying a political or moral lesson, of instructing the reader by apposite examples, and suit-

curiosi, et quamlibet nudâ rerum cognitione capiuntur, ut qui sermoneis etiam fabellisque ducantur.' Mere curiosity, the mere desire of knowledge, would lead them to take interest in descriptions of *natural* objects; but they do not take the same interest in these as in history. The true explanation is to be found in the well-known verse of Terence:—

'Homo sum: humani nihil a me alienum puto.'

Cicero (*Ep. ad Div.* v. 12, § 2) also speaks of the pleasure of reading a narrative, which he attributes in part to the delight taken in contemplating dangers from which we are ourselves exempt.

The difference between history and science, with respect to the superior attractiveness of the former, is pointed out by Vitruvius:—'Non enim de architecturâ sic scribitur ut historiæ aut poemata. Historiæ per se tenent lectores; habent enim novarum rerum varias expectationes; poematarum vero carminum metra ac pedes, ac verborum elegans dispositio et sententiarum inter personas distinctas, et versuum pronuntiatio prolestando sensus legentium perducit sine offensâ ad summam scriptorum terminationem. Id autem in architecturæ conscriptionibus non potest fieri, quod vocabula ex artis propriâ necessitate concepta inconsueto sermone obijciunt sensibus obscuritatem.'—v. præf. § 1, 2.

(99) 'Je suis fort porté à croire que ces histoires insipides, qui, ne pouvant être exactes, veulent être mentieuses, ont singulièrement contribué à provoquer et à répandre le goût dangereux des romans. Ce genre, qui avait été presque inconnu avant l'ère Chrétienne, ne se fait remarquer par le nombre et l'étendue de ses productions qu'au cinquième siècle, quand le genre historique achevait de dégénérer. On a composé dans le moyen âge presque autant de romans que de chroniques, comme par compensation; et l'on a continué, depuis le renouvellement des lettres, à se dédommager de récits fastidieux par des récits frivoles. Il est fort à présumer que les progrès que l'art d'écrire l'histoire pourrait faire encore, après ceux qu'il a déjà faits depuis le milieu du siècle dernier, détourneraient des lectures romanesques; et il y aurait à cela un double profit. De manière ou d'autre, il faut que le goût naturel des hommes pour les récits soit satisfait.'—Daunou, *ib.* tom. vii. p. 347. A similar remark is made by M. de Barante, *Hist. des Ducs de Bourgogne*, tom. i. præf. p. 24.

able sequences of events, or of using the facts as an illustration and proof of some practical principle.

Many of the dramatic tales and colloquies of remarkable men in Herodotus fall under this description; they are episodes in the main story, heightening its effect; wholly imaginary, or resting on a very slender basis of fact, and embodying some ethical or religious sentiment which the historian desires to exemplify.⁽¹⁰⁰⁾ The *Cyropædia* of Xenophon is a political romance—a practical exemplification of an ideal government, in which the groundwork of the narrative is formed out of a historical name, and there is a certain truth of local and national colouring; but the events and persons are, in general, imaginary.⁽¹⁰¹⁾ De Foe's *Memoirs of a Cavalier*, and his *History of the Plague*, belong to the same class of compositions; though they doubtless approximate more closely to the truth, and contain more fragments of fact embedded in the fiction than the ancient Persian tale of Xenophon.⁽¹⁰²⁾ The *Télémaque* of Fenelon is a work of a kindred nature, in which the story of the *Odyssey* is converted to a didactic purpose; though it can scarcely be considered as founded on fact, even by the stoutest defender of the historical character of the Homeric poems.

(100) See the remarks of Hoffmeister, *Sittlich-Religiöse Lebensansicht des Herodotus*, p. 118, cited by Mr. Grote, vol. v. p. 52, n.

(101) Upon the fictitious character of the *Cyropædia*, see the observations of Daunou, tom. 8, p. 185, 195, 262, 298, 302, 308. He remarks that Cyrus is the only historical personage in the work; all the other dramatis personæ are fictitious, p. 252. 'Cyrus ille a Xenophonte, non ad historiarum fidem scriptus, sed ad effigiem justî imperii.'—Cic. *ad Q. F.* i. 1, § 8. Compare Menage on *Diog. Laert.* iii. § 34; and Ulrici, *Charakteristik der Antiken Historiographie*, p. 46-7. The story that the words of Plato (*Leg.* iii. 12, p. 694), as to Cyrus not having had a good education, and not having applied his mind to economy, but being a mere warrior, allude to Xenophon's work, reported by Gellius, *N. A.* xiv. 3, is (as Boeckh, in *Platonis Minorm.* p. 181, has remarked) doubtless false; but this view of Cyrus is wholly inconsistent with that taken by Xenophon.

(102) 'Both the moralists and rhetoricians of ancient times were very apt to treat history, not as a series of true matters of fact, exemplifying the laws of human nature and society, and enlarging our knowledge of them for purposes of future inference; but as if it were a branch of fiction, so to be handled as to please our taste or improve our morality.'—Grote, *Hist. of Gr.* vol. v. p. 9.

§ 15 A further deviation from the strict truth of history which the ancients permitted themselves, and in which they sometimes assumed a very wide licence of invention, consisted in the introduction of speeches composed by the historian himself.⁽¹⁰³⁾ Herodotus has followed this practice to a considerable extent, as may be seen in his debate of the seven Persian conspirators, of the Persian council prior to the invasion of Greece; of Sosicles the Corinthian at the congress in Sparta; of the Greek envoys to Gelo, &c.: he also reports at length supposed conferences held in private between remarkable men, as Croesus and Solon, Xerxes and Demaratus.⁽¹⁰⁴⁾ The great model, however, of this mode of historical composition was Thucydides, of whose work nearly one fourth consists of speeches.⁽¹⁰⁵⁾ With such illustrious examples before them, it was natural that succeeding historians should continue the practice, and we accordingly meet with speeches in nearly all the classical histories, both of Greece and Rome.

Among the Greeks, there was apparently no reporting of public deliberations: all the original speeches which have been preserved to us, as those of Andocides, Isocrates, Demosthenes, Lysias, &c., were written and published by the orators themselves.⁽¹⁰⁶⁾ Some of them probably were never delivered: and

(103) Upon the introduction of speeches in the ancient histories, see Daunou, *Cours d'Etudes Historiques*, tom. vii. p. 446-99; Westermann, *Geschichte der Beredsamkeit in Griechenland und Rom*, vol. i. § 35, n. 13; vol. ii. § 11. Compare a short paper by the Abbé de Vertot, in the *Hist. de l'Ac. des Inscript.* tom. iii. p. 89.

(104) On the speeches in Herodotus, see Ulrici, p. 38; Vossius, *Ars Hist.* c. 20. The debate of the seven Persians in Herodotus is rejected as unhistorical by Creuzer, *Historische Kunst der Griechen*, p. 108. Compare p. 165.

(105) See Meicrotto, in the *Mém. de l'Acad. de Berlin*, 1790-1, p. 523, who states that the thirty-nine speeches of Thucydides occupy 5500 out of 23,900 lines in the edition of Stephens. The eighth book, too, it should be observed, contains no speeches. It appears to have been preserved to us in the first form in which the author composed his history. If he had not been prevented by premature death, or some other cause, he would probably have worked up the eighth book into the same form as the preceding parts of his history, by the insertion of speeches in the *recta oratio*, and by the further elaboration of certain passages in the narrative.

(106) Cicero says of Athens: 'quà in urbe primum se orator extulit,

in general, the Greeks, after rhetoric had become an art, were more in the habit of committing their speeches to memory, and of reciting them in the bema, as an actor declaims a speech in a tragedy, than is customary, or indeed possible, in modern times. As the oration was, in general, a carefully written composition, learnt by heart, its subsequent publication by the author himself was easy and natural. With the exception, therefore, of cases where an orator had published his own speech, the Greek historians had no other authority for their accounts of public deliberations than the recollection of persons present on the occasion.⁽¹⁰⁷⁾ Such, too, was the case with the Romans nearly up to the close of the Republic: but at this time the reporting of speeches on special occasions was introduced,⁽¹⁰⁸⁾ and authors of

primumque etiam monumentis et literis oratio est coepta mandari.' *Brut.* c. 7. Pericles left no written speech, *Plut. Per.* 8. The speeches attributed to him, mentioned by Cicero (*Brut.* 7; *De Orat.* ii. 22), were doubtless spurious. Antiphon was the first who wrote judicial speeches for others, *Plut. Vit. x. Orat.* c. 1; *Quintilian*, iii. i. § 11.

(107) This is all that Thucydides refers to, i. 22. It is a mistake to suppose, with M. Daunou, *ib.* tom. vii. p. 460, 470; tom. x. p. 56, that he relies upon written reports. Xenophon, indeed, is stated by Diogenes Laertius to have first used short-hand notes, for the purpose of taking down the conversations of Socrates, which he published in his *Memorabilia*, ii. 48. How far this notice is to be trusted, is uncertain; there is, however, no trace of the use of short-hand writing for the reporting of public speeches in the Greek states.

(108) Short-hand writers (*σημειογράφοι*) are stated to have been employed for the first time by Cicero, to report the debate in the Roman senate on the punishment of the Catilinarian conspirators.—*Plutarch*, *Cat.* c. 23.

According to Suetonius, *Cæs.* c. 55, a speech 'pro Q. Metello' was attributed to Julius Cæsar, 'quam non immerito Augustus existimat magis ab actuariis exceptam, malo subsequentibus verba dicentis, quam ab ipso editam.' The *actuarium* was the scribe who registered the *acts* of a public body; and whose name gradually acquired the sense of *reporter*. Thus, in Seneca, *Epist.* xxxiii. § 9—'Quid est quare audiam, quod legere possum? Multam, inquit, viva vox facit. Non quidem hæc, quæ alienis verbis commodatur, et *actuarii vice fungitur*,' i. e., not a voice which repeats another man's words, and performs only the part of a reporter. See Lipsius, *Excurs. ad Tacit. Ann.* v.

The original speech in defence of Milo appears to have been preserved from the reporter's notes. The speech now extant was composed afterwards, and was very unlike that actually delivered.—Merivale's *History of Rome under the Emperors*, vol. i. p. 543. The orations attributed to Sulpicius were, according to Cic. (*Brut.* 56,) said to have been written after his death by a certain Caninius. It does not appear how the orations of P. Scipio and T. Græchus, the genuineness of which is doubted by Livy (xxxviii. 56), were preserved. A speech of Appius Cæcus was extant in

the imperial period describe the art of the short-hand writer in terms which would apply to the present day.⁽¹⁰⁹⁾ No connected or complete series of the debates in the senate was, however, ever published at Rome; and the authentic materials at the command of the Roman historian for describing the deliberations of public bodies must have been very scanty.⁽¹¹⁰⁾

The closest adherence to historical truth in this matter is perceptible in Thucydides, who probably never represents a speech as having been delivered on an occasion when no speech

Cicero's time.—*Brut.* 16. Cicero refers to the habit of orators, in his time, omitting to write their speeches until they had been delivered: 'Nam videmus alios oratores inertiam nihil scripsisse, ne domesticus etiam labor accederet ad forensem; plerumque enim scribuntur orationes habitæ jam, non ut habeantur.—*Brut.* 24. Upon the publication of Roman speeches, see Ulrici, *ib.* p. 115.

For the history of short-hand and secret writing in antiquity, see Carpentier, *Alphabetum Tyronianum*, Paris, 1747, fol., in the preface; also, Hngo, *de Scrib. Orig.* p. 537; Kopp, *Tachygraphia Veterum*, Manheim, 1817; and Bernhardt, *Röm. Litteratur*, p. 66.

Concerning the practice of taking down sermons in short-hand, in the early centuries of the church, see Bingham's *Antiquities of the Christian Church*, b. xiv. ch. 4, § 29 (vol. iv. p. 608, ed. 1844).

Short-hand writing seems never to have become one of the *artes perditæ*; but it was revived in England in the early part of the seventeenth century, when several manuals of it were published. See Granger's *Biog. Dict.* vol. i. p. 539; vol. ii. p. 99. 'The art of short-writing (Granger observes) is in a manner our own; it was very little known or practised at this time [*i. e.* in the seventeenth century] in any other country.—*ib.* p. 540.

Mr. Rushworth, the clerk-assistant, took down in short-hand the speech which the king made to the House of Commons, when he went to seize the five members. The contents of this speech prove that it was spoken extemporaneously, and not read. Mr. Rushworth afterwards furnished to the king, at his request, a copy of these notes. The expression used is, 'taking his speech in characters.'—Rushworth's *Collections*, vol. iv. p. 478. The publicity of proceedings, both judicial and parliamentary, doubtless promoted the use of short-hand writing in England; and however much the Gurneys may have perfected this important art, they are the legitimate successors of the official short-hand writers of the seventeenth century.

(109) Quid [loquor] verborum notas, quibus quamvis citata excipitur oratio, et celeritatem linguæ manus sequitur?—Seneca, *Epist.* 90, § 26. Martial (xiv. 208) has the following epigram on the *notarius*, or short-hand writer:—

'Currant verba licet, manus est velocior illis;
Nondum lingua, suum dextra peregit opus.'

(110) The acclamations of the senate, after the death of Commodus, and upon the accession of Alexander Severus, as preserved in the Augustan history, appear to have been derived from the reports of short-hand writers.—See Lamprid. *Commod.* c. 18-20; *Alex. Sev.* c. 6-12.

was made at all; and who always reproduced the substance of a real address.⁽¹¹¹⁾ Even he, however, clothes every speech in his own peculiar, compact, and pregnant diction; and often puts into the speaker's mouth rather what he might have said, and ought to have said, than what he did actually say. The later historians assumed a still wider latitude: they looked upon a deliberation in a popular body, or a military harangue, as an opportunity for rhetorical display, and they composed speeches in prose with as much freedom as a dramatist would use in verse. Not only did they write new speeches where no record of the speech really delivered had been preserved, but they sometimes substituted their own compositions where the original speech was extant;⁽¹¹²⁾ and even introduced speeches on occa-

(111) He informs us that it was difficult to ascertain the precise words of speeches, either of those which he had himself heard, or from the reports of others; and that he has put into each speaker's mouth such arguments as seemed suited to the occasion, keeping as close as he could to the general tenour of what was really said.—i. 22.

On the speeches in Thucydides, see Meierotto, *ib.* p. 521-32; Creuzer, *ib.* p. 275; Ulrici, *ib.* p. 43; Daunou, tom. x. p. 64-6.

Cratippus, a contemporary, said that the speeches of Thucydides would not only have been unsuited to their purpose in actual delivery, but were even unpleasant to read.—Dionys. *de Thucyd. Jud.* c. 16. Cicero, too, considers them unfitted for delivery.—*Brut.* c. 83; *Orator.* c. 9. These criticisms assume that they were the arbitrary composition of the historian; and the same assumption is made by Dionysius, (*ib.* c. 44, 45,) in his comments on the speech of Pericles, in ii. 60. His argument is founded on the belief, that Pericles must have addressed the Athenian assembly in the same submissive and cautious tone as a demagogue of later times, versed in the rules of the rhetorical teachers. What would be the result, if the speech of Socrates to the judges, as reported by Plato, were criticised on these principles?

Sir Edward Coke claims for a law-reporter a latitude of discretion similar to that exercised by Thucydides. 'I shall (he says) give no just offence to any, if I challenge that which of right is due to every reporter; that is, to reduce the sum and effect of all to such a method, as upon consideration had of all the arguments, the reporter himself thinketh to be fittest and clearest for the right understanding of the true reasons and causes of the judgment and resolution of the case in question.'—*7 Report*, p. 4. See Lord Campbell's *Lives of the Chief Justices*, c. 10, vol. i. p. 340.

(112) Compare the speech composed for the emperor Claudius by Tacitus (*Ann.* xi. 24), with his genuine speech, preserved on brazen tablets in the museum at Lyons, and published in the appendix to Tacitus.—See Westermann, *ib.* vol. 2, § 75, n. 9. M. Daunou's defence of the historical fidelity of Tacitus on this occasion is unsuccessful.—tom. vii. p. 491.

Livy (xlv. 25) mentions a speech of Cato in the senate, and adds: 'non

sions when no speech had been delivered, or went so far as to attribute a fictitious speech to an imaginary person.⁽¹¹⁾ Diodorus, who discusses this subject in the præm to his 20th book, assumes, as a notorious and admitted fact, that speeches were introduced into histories in order merely to display the rhetorical powers of the author, and not to report the arguments really used by the speaker. Such a writer, he remarks, will find a more appropriate field for his skill in the composition of separate speeches and other discourses. He objects to speeches, as being out of place in a history, as disturbing the course of the narrative, and distracting the reader's attention. He admits, however, that they may sometimes be introduced with propriety, either for the

inseram simulacrum viri copiosi, quæ dixerit referendo; ipsius oratio scripta extat, Originum quinto libro inclusa. Livy would have disdained to insert the original speech, or even to make a faithful abstract of it; though, like Tacitus, he would readily have composed one of his own invention.

(113) Probably a better example cannot be found than the speeches which Livy, Dionysius and Plutarch, represent as having been addressed to Coriolanus by his mother in the Volscian camp; see Livy, ii. 40, who compresses her address into a few pathetic sentences. Dionysius introduces a long colloquy, extending over many pages, viii. c. 46-53. Plutarch is less concise than Livy, but less diffuse than Dionysius.—*Coriolan.* c. 35-6. The whole story of Coriolanus is romantic and ill-authenticated. The fact of a set speech having been addressed to him by his mother is doubtless imaginary, and the several speeches attributed to him by the three historians differ as much from each other as the speeches in three tragedies on the subject of Coriolanus would differ.—See Crevier's note on Livy, who compares their merit as compositions, but considers them all as fictitious.

Polybius states that two Greek historians of the second Punic war, named Chæreus and Sosilus, described the Roman senate as deliberating upon the question of peace and war with Carthage, after the taking of Saguntum, and introduced the speeches delivered on both sides of the question; whereas Polybius affirms that no such debate then took place, and that the decision had been previously made, iii. 20. These speeches, therefore, must have been wholly fictitious.

A speech attributed to Hermocrates the Syracusan at the congress of Gela, by Timæus, in the 21st book of his history, is censured by Polybius as puerile, and unworthy of its supposed author.—See Tim. *Æragm.* 97, ed. Didot.

The speeches of Cleonnis and Aristomenes, concerning the prize of valour at a battle in the Messenian war, in Diodorus, lib. viii., are purely fictitious.—See Paus. iv. 10, § 4: and Manso's *Sparta*, vol. i. 1, p. 219. The speeches of Nicolaus and Gylippus concerning the treatment of the Athenian captives at Syracuse, in xiii. 20-32, are manifestly fabricated by the historian. Nicolaus is probably an imaginary name.

sake of varying the narrative, or where the events are important, or contrary to expectation. The objections of Diodorus to invented speeches are, therefore, founded on literary, not historical grounds: he thinks that they impair the composition as a work of art: but he says nothing of their inconsistency with historical truth. On the same principle, Trogius Pompeius, whose history Justin abridged, censured Livy and Sallust for the length of their speeches, which exceeded the limits of history: (114) but he did not censure them for introducing speeches which had never been spoken. (115) Plutarch, again, disapproves of the long harangues which Ephorus, Theopompus, and Anaximenes represented as being addressed to armies before battle, on the

(114) 'Quoniam in Livio et in Sallustio reprehendit, quod conciones directas, pro sua oratione operi suo inserendo, historię modum exceſſerint.'—Justin. xxxviii. 3. Trogius likewise objected to the speeches being composed in the *oratio directa*. Trogius lived in the Augustan age.

(115) Quintilian bestows the highest praise on Livy for the composition of his speeches, but treats them as the original work of the historian: 'Nec indignetur sibi Herodotus æquari T. Livium, cum in narrando mirę jucunditatis, clarissimique caudoris, tum in concionibus, supra quam enarrari potest, eloquentem: ita dicuntur omnia, cum rebus, tum personis, accommodata: sed affectus quidem, præcipue eos qui sunt dulciores, ut parcissime dicam, nemo historicorum commendavit magis.'—x. l. § 101. The speeches of Livy are defended by Crevier, in the preface to his edition, p. vii.-x. Upon the speeches in Livy, see also Daunou, tom. xiii. p. 181, and Ulrici, p. 123. As an example of Livy's freedom of style in the composition of speeches, compare the colloquy of Hannibal and Scipio before Zama (xxx. 30-1) with Polyb. xv. 6-8. Livy, in the earlier part of his work, sometimes refers to reports of speeches in former histories—see i. 35; iii. 67; vi. 40; but these reports were doubtless fictitious also. Niebuhr (*Hist. of Rome*, vol. ii. p. 10) says that the speeches in Dionysius and Livy are mere oratorical compositions, founded on traditionary facts. Curtius professes to report faithfully the speech of the Seythian ambassadors to Alexander (vii. 8); but this can only mean, that he reproduces the speech of some Greek historian.

According to Ulrici (*ib.* p. 148), the speeches in Tacitus have three objects—viz., either (1) to contribute to the perfection of the history as a work of art; or (2), to illustrate the character of the speaker; but chiefly (3) to serve as political lessons.

On the rhetorical character of the Roman historians, and their fondness for speeches, see Ulrici, *ib.* p. 112; and on fictitious speeches and letters in Latin historians, see Léon de Closset, *Essai sur l'Historiographie des Romains*, p. 105, 212.

Gibbon says of an epistle from Belisarius to the Emperor Justinian, preserved in Procopius:—'The soul of an hero is deeply impressed on the letter; nor can we confound such genuine and original acts with the elaborate and often empty speeches of the Byzantine historians.'—c. 43, note.

ground that they were introduced on an unsuitable occasion.⁽¹¹⁶⁾ Lucian, in his instructive essay upon history, lays it down that speeches in a historical work must be suitable to the character of the speaker, and appropriate to the subject. They ought (he adds) to be perspicuous; but the historian must show his rhetorical power and eloquence.⁽¹¹⁷⁾ This precept assumes that the historian has a full liberty of fiction in the composition of speeches, and that, provided, like the dramatist, he adapts the discourse to the speaker and the occasion—and

Reddere personæ scit convenientia cuique—

he may indulge his talent for declamation without restraint.

The only writer of antiquity who objects to the introduction of imaginary speeches into history, on the ground of their being imaginary, is Polybius. He lays it down distinctly, that the business of the historian is not to astonish the reader, or to seek after speeches which might have been delivered, and to enumerate possible consequences of events, like the writers of tragedy, but to record the things which were really done and said. The ends of history and tragedy (he adds) are not similar, but opposite; that of the former is to move and delight the hearer, at the present moment, by such dialogues as seem probable: that of the latter is to instruct the student, by real acts and

(116) *Præcept. Ger. Reip.* c. vi. Quintilian considers Theopompus more an orator than a historian.—x. 1, § 74. As an example of a military harangue utterly misplaced and absurd, the long speech of Darius to his troops before the battle of Arbela, composed by Quintus Curtius (iv. 14), may be cited. The Persian kings were doubtless, from their habits, incapable of making an oratorical address in public; moreover, the topics which Darius uses, though suitable to a Greek general, are quite out of place in the mouth of an Oriental despot, and inapplicable to an army whose discipline depended on the mere compulsion of a slave-driver.

Long speeches interrupt the narrative of history: 'On s'attend, en lisant l'histoire, à voir passer devant soi une file de personnages, à suivre leurs actions, à en découvrir les ressorts secrets, et à y trouver soi-même ce que l'historien n'apprend pas.'—Meierotto, *Mém. de Berlin*, 1790-1, p. 531.

(117) *Quom. sit Cons. Hist.* c. 58. Compare the remarks of Daunou, tom. vii. p. 497.

words, for all future time.⁽¹¹⁸⁾ This is the principle which is now generally recognised and acted upon. For some years past, historians have considered all speeches and oral discourses as a part of the *res gestæ*, of the facts and events of history. Where authentic memorials of them have been preserved, the historian repeats them either at length, or in such an abbreviated form as may suit his purpose.⁽¹¹⁹⁾ Where no true record has been preserved, the modern historian does not fabricate imaginary speeches, and put them in the mouth of the acting personages in his drama. For some time, indeed, after the revival of letters, the practice of the ancients was adhered to by historians: thus, Guicciardini,⁽¹²⁰⁾ in his second book, represents speeches delivered in a consultation of Florentine citizens, upon the comparative advantages of popular and aristocratic government, as the Persian conspirators in Herodotus debate the comparative advantages of monarchy, oligarchy, and democracy. Paulus Jovius,⁽¹²¹⁾ Machiavel and Bentivoglio, follow the same practice; and even later historians, as Solis and Botta, introduce speeches of their own composition.⁽¹²²⁾ Several modern writers of high authority,

(118) ii. 56, § 10-11. M. Daunou remarks that Polybius, in his own history, adheres strictly to truth, and introduces few speeches (tom. xii. p. 284-5.) Concerning the speeches in Polybius, see Vossius, *Ars Hist.* c. 20.

(119) M. Daunou observes that there is no doubt as to the authenticity of the speech reported to have been made by Charles V. on abdicating the crown of Spain (tom. vii. p. 484.) See it reported at full length in Sandoval, *Historia de Carlos V.* lib. xxxii. § 34. Gibbon is disposed to consider the speech of Attila before the battle of Chalons, as reported by Cassiodorus, to be a correct representation of his real address to his soldiers.—*Decl. and Fall*, c. 35.

(120) See upon Guicciardini's *Speeches*, L. Ranke (*Zur Kritik neuerer Geschichtschreiber*, Leipzig u. Berlin, 1824, p. 20), who remarks (*ib.* p. 22), that rhetorical merit is alone expected in historical speeches.

(121) As to the imaginary speeches which Paulus Jovius introduced into his history, after the model of the ancients, see Wachler, *Gesch. der Historischen Forschung*, vol. i. p. 123.

(122) See, in his *Storia d'Italia dal 1780 al 1814*, lib. iii., the debate in the Venetian senate, in 1793, upon the steps to be taken with reference to the French invasion of Italy. The two speeches of Pesaro and Valaresso appear to be composed in the same manner as those of Thucydides. They are the original compositions of the author, but they represent speeches actually spoken, and follow the same line of argument. See,

and particularly the French critics of the classical school, up to La Harpe,⁽¹²⁾ have approved of fictitious speeches in history; but since the grounds of historical evidence have been more carefully considered, it has been generally admitted that no speech, which

likewise (*ib.* lib. v.), the debate in the Piedmontese council upon the war with France in 1795; in lib. xii., a discourse, in a society of public instruction at Milan, 1797; and the speech of Villetard to the Venetians, *ib.*

Prescott (*Hist. of the Conquest of Mexico*, b. vi. c. 8, ad fin.) observes that Solis, in his *Conquista de Mejico*, places set speeches of his own composing in the mouths of his personages; some of which fictitious harangues have been transcribed by Robertson (see vol. i. p. 303, note.) Herrera likewise follows the same practice, (*ib.* p. 325, n.) An address of the messengers sent to announce to Montezuma his election, in 1502, to the Mexican throne, reported by Torquemada, is considered by Mr. Prescott as authentic, and not imaginary (*ib.* p. 278). Niebuhr, in the third volume of his Roman history, introduces two fictitious speeches, one of Cineas, the other of Appius the Blind, to the senate, in reference to peace with Pyrrhus, composed by himself, p. 485-94, Eng. trans.

(123) See the opinions of modern critics on this subject, enumerated in Daunou, tom. 7, p. 446-50. The use of speeches in the ancient historians is vindicated by Vossius (*ib.* c. 20, 21); by La Harpe, *Cours de Littérature*, liv. iii. ch. i. sect. ii. (tom. iii. part i. p. 317, ed. an vii.); and by Crevier, *præf. ad Liv.* p. vii.

Beni, an Italian writer on history of the seventeenth century, thinks that speeches ought to be only short and indirect; and he censures those of Livy.—Daunou, vol. 7, p. 56. Cabrera, a Spanish writer, defends the use of them.—*ib.* 61.

Le Moynes, a French writer, admits them with certain restrictions (*ib.* 102); while Rapin scarcely admits them (*ib.* 111), and D'Alembert disapproves of them (*ib.* 117). The use of speeches in history is defended by Mascardi (*Dell' Arte Istorica*, tratt. ii. c. iv. p. 142), who gives maxims for their composition in tratt. v. c. 2. Imaginary historical speeches are justified by Ubertus Folieta, in a tract 'de Ratione scribendæ Historiæ,' in *Græv. Thes. Ant. It.* vol. i. p. 1202.

The advantage of introducing speeches composed by the historian is strongly maintained by Mably (*De la Manière d'écrire l'Histoire; Œuvres*, tom. xii. p. 452-61): 'Quand vous ferez une histoire (he says), je vous conseille de faire parler chaque personnage suivant son caractère et celui de son siècle; cette règle, prescrite aux poëtes par les maîtres de l'art, est également faite pour les historiens.'—*ib.* p. 460.

Crevier, in his preface to Livy, inquires on what ground the censurers of historical speeches rest their objection: 'Fides, inquit, historie violatur, dum ea nobis tanquam dicta obtruduntur, quæ tamen nunquam revera dicta sunt. Quasi vero cuiquam innocens ille dolus imponat, aut periculum sit, ne quis illas Livii tam diligenter elaboratas, tam severe castigatas, tantis verborum sententiarumque munditiis excultas orationes ab horridis illis primorum urbis Romæ temporum oratoribus esse existimet.'—p. 8. This notion of fictitious speeches in history being a sort of pious fraud, and of there being a conventional understanding between the writer and reader, that they do not represent realities, is well exposed by M. Daunou, who cites the same opinion from a French writer of the last

was not actually delivered, and of which an authentic contemporary report has not been preserved, is admissible in a history.⁽¹²⁴⁾

It must be acknowledged that the practice in question has been the means of giving us many well-written orations, and of showing in what light the transactions described were viewed by the historian. Thucydides, for example, rarely comments upon the events; and his construction of the facts is principally to be derived from the arguments which he puts in the mouths of his speakers.⁽¹²⁵⁾ In antiquity, moreover, when there were no standing embassies, and no diplomatic correspondence between independent states, negotiations were chiefly carried on by envoys, who delivered their message in a public meeting, and argued in its support. Hence, many important transactions were conducted orally, in an ancient state, which would now be contained in despatches between the ministers of different courts and in collections of state papers.⁽¹²⁶⁾ There was, therefore, greater inducement to give, in

century, named Gaillard.—*Id.* tom. vii. p. 458. Crevier boasts of the superiority of Livy's well-written and highly-polished speeches to the rude language of the rustic Romans, in the first centuries of the city; but how is this praise to be reconciled with the often-repeated maxim, that the historian is to adapt his speeches to the speaker and the occasion?

(124) The subject is well treated by Griffet, *Traité, &c.*, c. xv., with examples chiefly taken from modern historians. Wachsmuth (*Theorie der Gesch.* p. 134-9) disapproves of all speeches and letters in history which are ideal, and not real. M. Daunon (*ubi sup.*) has likewise refuted the arguments in favour of fictitious speeches. M. de Barante (*Hist. des Ducs de Bourgogne*, pref. p. 43-4) says that he never introduces speeches composed by himself; but he repeats, from the contemporary chronicles, speeches which he believes to have never been really delivered, and conversations which he believes never to have taken place, because they convey a correct impression of the time.

(125) Crevier, in his preface to Livy, argues that the reflections of the historian may be properly thrown into the form of imaginary speeches:—*'Sed si verarum [orationum] copia non sit, non video sane, cur vetetur is qui historiam scribit, suas et ad excolendum animum, et ad acuendum ingenium sæpe profuturas orationes offerre lectori, quum præsertim et in eas conjici commodè possint sapientissima quedam monita ac præcepta ex ipsis factorum visceribus nascentia, quæ tamen inter narrandum attexere minime decuerat; et ingenia, mores, animi ducum ac populorum propius ad naturæ veritatem exprimi; et vero causæ illæ quibus bellorum origo, et celeberrimi quique eventus continentur, atque etiam consilia ex quibus facta fluxere, liberius copiosiusque tractari.'*—p. ix.

(126) See, for example, the speech of the Corinthian envoys to Sparta Thucyd. i. (68), with the answer of the Athenian envoys (*ib.* 73); the speech of the Mytilenæan envoys at Olympia (Thucyd. iii. 9); of the

the form of a speech, arguments which would now be cited from authentic documents. It is further to be borne in mind, that in the ancient republics public affairs were decided in popular assemblies after debate, in which the leading politicians took part;⁽¹²⁷⁾ whereas in all the states of modern Europe, except England, the decisions were generally made by the king or his ministers in private. But no fictitious speeches, however excellent they may be as rhetorical or logical compositions—however much they may add to the dramatic effect and vivid impression of the story, can, if considered as historical memorials, possess the value of a faithful abstract of the arguments and opinions actually pronounced by the speakers. Admirable as are the speeches in Thueydides, it must be acknowledged that an Athenian Hansard would be a more solid basis for history; and the debates composed by Johnson, in his stately diction, for the English parliament are, for the purposes of the historian, eclipsed by the work of the modern newspaper reporter.

It should be observed, that no fault can be justly found with the introduction, into a history, of speeches or conversations in the first person.⁽¹²⁸⁾ Epic poetry uses this dramatic form;⁽¹²⁹⁾ and it

Lacedæmonian envoys at Athens (*ib.* iv. 17), and of the Syracusan and Athenian envoys at Camarina (*vi.* 76, 81). In all these cases, modern practice would have substituted a written communication between the ministers of the several governments, or between the ambassador of one government and the minister of the other. It will be observed that the use of a common language in Greece enabled the envoys of one state to address the public assembly of another state, as might now be done in Germany or Italy. The conferences at the treaty of Uxbridge, in our civil war, between sixteen commissioners on each side, are somewhat of a similar nature. The Greek embassies resembled that species of conference with a minister which is now called a *deputation*. Hence, Demetrius complained of the insult offered to him by the Lacedæmonians, in sending to him an embassy of only *one* person.—Plutarch, *Demetr.* 42.

(127) On the importance of speeches for a right understanding of the political movements in the ancient states, see Dion. Hal. *Ant. Rom.* vii. 66.

(128) See the criticism of Trogus upon the speeches of Livy and Sallust, above, p. 237, note 114.

(129) Epic is distinguished from dramatic poetry by its continuity of narrative, and by its being the avowed story of the poet. Whereas a drama consists only of a series of speeches, intended to be delivered by different actors, who supply the chasms in the story by their action. If, in the account of the assembly in the first book of the *Iliad*, the connecting

belongs particularly to the simple and primitive form of narrative; thus, it characterizes not only the historical books of the Old Testament, but also the gospels. The objection to the speeches of the classical historians lies, not to their form, but to their substance: not to their being speeches, but to their being fictitious speeches.

§ 16 The practice of introducing imaginary speeches into histories being now generally abandoned, the modern historian cannot be accused of this aberration from truth.⁽¹³⁰⁾ But, in general, he indemnifies himself amply for this forbearance. If he does not put imaginary words into the mouths of his speakers, he suggests imaginary motives for their acts. If he does not put an arbitrary construction on their conduct by means of fabricated orations, he attains the same end by insertions and glosses of his own. We have already remarked how the writer of history is often tempted to fill up gaps in the narrative from mere conjecture, where the evidence is deficient or obscure. This tendency to fill up the blank spaces of the historical narrative by conjecture equally besets the historian of the past, and the historian of the present. The former is tempted by the meagreness of his materials to indulge in hypothesis, and to found historical theories—i. e., supposed states of fact—upon a very narrow basis of evidence.⁽¹³¹⁾ The writings of some of the most eminent

verses were omitted, and the speeches only remained, it would become dramatic in form. On the other hand, the narrative speeches of the messengers in the Greek drama are substantially epic in their form—and they introduce speeches in the first person: see, for example, *Æsch. Pers.* 408. *ὁ παῖς ἐκ τῶν Ἑλλήνων Ἴρε*. Compare the speech of the messenger in *Samson Agonistes*, and the speech of Ulysses at the end of Racine's *Iphigénie*. Aristot. (*Poet.* 3. 24) considers it a peculiar excellence of Homer, that his epic narrative is dramatic. As to the difference between dramatic and historical narrative, Plato *de Rep.* iii. p. 392-4. 'Aut agitur res in scenis, aut acta refertur,' says Horace. When the latter mode of description is adopted, the narrative becomes substantially epic.

(130) See *Ed. Rev.* vol. xlvii. p. 352.

(131) 'So, again, narrations and relations of actions, as the war of Peloponnesus, the expedition of Cyrus Minor, the conspiracy of Catiline, cannot but be more purely and exactly true than histories of times, because they may chuse an argument comprehensible within the notice and instructions of the writer: whereas he that undertaketh the story of a time, especially of any length, cannot but meet with many blanks and

historians and antiquarians of the modern German school—as Niebuhr and Otfried Müller—afford remarkable examples of this disposition; to which may be added, the *History of the Norman Conquest of England* by Thierry. Nearly all the writers on ancient religion and mythology, and on primitive ethnography, fall under the same head. Many parts of Hume's *History of England* are likewise formed upon this principle;⁽¹²⁷⁾ and in general, all party-writers, in composing the history of the past,

spaces which he must be forced to fill up out of his own wit and conjecture.—Lord Bacon, *Adv. of Learning*, vol. ii. p. 108. On the *discorsi* in the history of Guicciardini, and his habit of suggesting motives, see Ranke, *Zur Kritik neuerer Geschichtschreiber*, p. 46-9. Plutarch says that Pericles was suspected of having fomented the war with Lacedæmon, in order to occupy the minds of the people, and to divert accusations from himself—he then proceeds thus: αἱ μὲν οὖν αἰτίαι δὲ ἃς οὐκ ἔστιν ἐνδοῦναι Λακεδαιμονίους τὸν δῆμον, αὗται λέγονται· τὸ δ' ἀληθὲς ἀγῶλον.—*Pericl.* c. 32.

(132) 'Mr. Hume's summaries of the conflicting views of different parties at particular eras, have been deservedly admired for the singular clearness, brevity, and plausibility with which they are composed; but, in reality, they belong rather to conjectural than to authentic history; and any one who looks into contemporary documents, will be surprised to find how very small a portion of what is there imputed to the actors of the time had actually occurred to them, and how little of what they truly maintained is there recorded in their behalf. The object of the author being chiefly to give his readers a clear idea of the scenes he described, he seems to have thought that the conduct of the actors would be best understood by ascribing to them the views and motives, which, upon reflection, appeared to himself most natural in their situation. In this way, he has often made all parties appear more reasonable than they truly were; and given probability and consistency to events, which, as they actually occurred, were not a little inconceivable. But in so doing, he has undoubtedly violated the truth of history, and exposed himself to the influence of the most delusive partialities. Such a hypothetical integration of the opinions likely to prevail in any particular circumstances, seems at all times to have been a favourite exercise of his ingenuity. Very early in life, for example, he composed four essays, to which he gave the names of *The Epicurean*, *The Stoic*, *The Platonist*, and *The Sceptic*, and prefixed to them the following very characteristic notice: 'The intention of these essays is not so much to explain accurately the sentiments of the ancient sects of philosophy, as to deliver the sentiments of sects which naturally form themselves in the world, and entertain different ideas of human life and of happiness. I have given each of them the name of the philosophical sect to which it bears the greatest affinity.' These very words, we think, might be applied, with very little variation, to most of the summaries of which we have been speaking. They, too, are mere conjectural views of the different sentiments that may be supposed naturally to arise in the world at particular periods; and they are given under the name of the historical party to which they bear the greatest affinity.—*Ed. Rev.* vol. xi. p. 97; art. on 'Brodie's Constitutional History.'

suggest, as they go along, such motives, and annex such interpretations of the conduct of the actors, as tend to support the conclusions to which they wish to lead the reader's mind, although this colouring is drawn only from conjecture. The writer of contemporary annals, again, is often unable, from want of access to authentic accounts, to learn the true reasons and character of events ; and is therefore tempted to supply the void by his own conjecture, or, what is as bad, by the conjectures of others, which have taken the form of popular rumour. Private letters, journals, diaries, and other memoranda, written by contemporaries, which furnish the most authentic materials for history, are not in general published until after the lifetime of their authors, and of the persons to whom they refer. Confidential manuscripts do not become historical until the living generation has passed away. Hence, the recorder of contemporary events has often less access to the true explanation of the motives of public men than the following generation ; however sagacious the divination of contemporaries may be, no sagacity can supply the want of positive testimony and authentic information. All persons who have had access to correct intelligence respecting the objects and motives of public men while events are in progress, will bear witness to the inaccuracy of the guesses and rumours respecting them which gain a popular currency.* It was, doubtless, from a knowledge of the erroneous construction often put by the public upon the policy and intentions of statesmen, that Sir Robert Walpole derived his distrust or dislike of history : when his son proposed to read to him some historical work, he refused to hear it, on the ground that it must be false.⁽¹³³⁾

The nature of human action renders it inevitable that the mental state of the agent, contemporaneously with the act, should often be unknown. The act itself, with its antecedents and con-

(133) See Coxe's *Memoirs of Sir R. Walpole*, vol. i. p. 762, 4to. ' Les histoires sont des faits faux composés sur des faits vrais, ou bien à l'occasion des vrais.'—Montesquieu, *Pensées Diverses; Œuvres*, tom. vii. p. 242.

See the remarks of Patricius, cited in Daunou, tom. vii. p. 47. Some further illustrations of the method of supplying motives by conjecture, in historical works, will be found in note B, at the end of this chapter.

sequents, may be determinable by authentic testimony; but the reasons which influenced the practical will of the agent are often only a matter of uncertain conjecture, to be settled by the balancing of rival probabilities.⁽¹³⁴⁾ In this respect, the historian is similarly situated to the judge. In all cases of disputed fact, where the evidence has been brought before him, and sifted by arguments on both sides, he has to decide upon the inference to be drawn from the circumstances proved by the witnesses, and to decide accordingly. So a historian must form a judgment as to the moral quality of the actions which he describes, from the aggregate of the circumstances accompanying it. But as long as the world are ready to receive the surmises and guesses of the narrator on the same footing as the depositions of his witnesses—as long as specious probabilities are placed on a par with well-attested facts, so long will history be a misleading guide, and an unsafe foundation for political science. Until it is recognised that the same strict rules of evidence are applicable to historical composition, which are employed in courts of justice, and in the practical business of life, history must remain open to the well-grounded suspicions under which it often labours, and will, by many, be treated with that despairing scepticism, which is one of the great obstacles to the advancement of knowledge.⁽¹³⁵⁾ The historian will do well to remember the old legal adage, ‘Mendax in uno, presumitur mendax in alio;’⁽¹³⁶⁾ and if, in putting together his materials, he makes additions from his imagination, he incurs the danger of being met—by persons who adopt Sir R. Walpole’s canon of judgment—with general disbelief.⁽¹³⁷⁾

(134) Above, ch. v. *ad fin.*

(135) See *Nov. Org.* i. 92.

(136) ‘Testimonium testis, quando in una parte falsum, presumitur esse et in ceteris partibus falsum.’—Menochius *de Præsumptionibus*, lib. v. præf. 22.

(137) ‘Quand vous écrivez l’histoire, vous êtes responsable de tout ce que vous rapportez, à votre siècle et aux siècles à venir; vous leur devez la vérité dans toute sa pureté, sans altération, et sans mélange. Ne dites donc jamais, ce n’est qu’une minutie, qui n’est d’aucune conséquence pour la vérité de l’histoire en général; il importe peu qu’elle soit vraie ou fausse. Désabusez vous, ou ne vous pardonnera aucune espèce d’erreur et de fausseté: si l’on vous trouve infidèle dans les plus petites choses, on

As every narrator must put a certain construction upon the events, and must supply something, it is important that the interpretation should be furnished by a competent judge, by a person who can decipher the language in which the transactions are written. Hence the advantage of a historian, who has acquired a practical knowledge of the subjects which he describes, and is therefore assisted by personal experience in forming a coherent narrative, and illustrating its course.⁽¹³⁸⁾ This happens when a statesman recounts the political events, or when a military or naval officer narrates the wars, of his own time. For the history of former ages, such personal experience is, of course, impossible: the only approximation to it is by analogy.

Histories, moreover, sometimes present fancy-pictures, not only of the motives of actors, but also of the effects of laws, institutions, and other acts or measures of a government. The writer is prone to reason rather than to investigate: he assumes that a law produced its intended effects—that everything proceeded logically, and according to the laws of probability; whereas, if he had searched into the facts, he would have found that the reality was otherwise; and that the natural operation of the cause was materially frustrated and impeded in practice.⁽¹³⁹⁾

§ 17 In the instances which we have been considering, the historian treats his subject in a free and discretionary style, by interpolations, not derived from extrinsic evidence, but framed according to his own notions of internal probability. He supplies, from conjecture, what he thinks might have been the contents of the record, if any record of the fact were extant, in the same manner that an antiquarian attempts to restore an inscrip-

en conclura que vous pouvez l'être également dans les grandes; et la défiance que cette légère infidélité vous attire, se repandra quelquefois sur la totalité de votre ouvrage.'—Griffot, *ubi sup.* p. 68.

(138) See Polyb. xii. 28.

(139) 'Rien ne fausse plus l'histoire que la logique: quand l'esprit humain s'est arrêté sur une idée, il en tire toutes les conséquences possibles, lui fait produire tout ce qu'en effet elle pourrait produire, et puis se la représente, dans l'histoire, avec tout ce cortège. Il n'en arrive point ainsi: les événements ne sont pas si prompts dans leurs déductions que l'esprit humain.'—Guizot, *Hist. de la Civil. en Europe*, leçon 5.

tion, which is in part defaced and obliterated. The next step in this mode of composition is the historical epic, drama, romance, or novel. The difference between the latter compositions, and history, treated in the manner first mentioned, chiefly consists in this: that in the former the fact is subordinate to the fiction, whereas, in the latter, the fiction is subordinate to the fact. In the *Jerusalem Delivered* and the *Henriade*, in the historical plays of Shakspeare and Schiller, in the novels of Walter Scott, and in the *Promessi Sposi* of Manzoni, the author uses certain real events as a substratum for his own fictions; but he does not bind himself to strict historical truth. He engrafts upon the historical stock the characters and adventures of his own actors; so that the two cannot, without extrinsic assistance, be discriminated. For example, the reader of Tasso could not, by any indication contained within the poem itself, determine whether Godfrey is more historical than Argante, or Tancred than Clorinda.⁽¹⁴⁰⁾ Nor, without a reference to authentic history, would a reader of the *Henriade* suspect that the interview of Henry and Elizabeth is not as much a fact as the existence of these two princes. Whenever an authentic history of the time exists, we can, by comparing it with a historical poem or romance, discover how much of it is borrowed from fact, and how much is pure fancy. By applying this test, for instance, to *Macbeth* and *Henry the Eighth*, to *King Lear* and *Richard the Third*, to *Cymbeline* and *King John*, we shall find that the historical matter in these plays of Shakspeare bears very different proportions to the fictitious.

Wherever this test is inapplicable—on account of the want of contemporary records—we are unable to distinguish which is fact and which is fiction, and therefore we cannot separate any portion as historical. Assuming that there is some historical basis for the Homeric account of the Trojan war, we should, if any contemporary account of it were extant, be able to determine what portion of the *Iliad* and *Odyssey* is founded on fact, and

(140) As to the departures from historical truth in the *Jerusalem Delivered* of Tasso, see Ginguené, *Hist. Litt. d'Italie*, part ii. ch. 15, *ad fin.* (tom. v. p. 380.)

what portion is fabulous. But contemporary history in Greece dates from a period much later than that assigned to the Trojan war, and consequently it will always be impossible to precipitate any particles of fact which may be held in solution in the Homeric poems. The *Persians* of Æschylus, and his *Seven against Thebes*, are equally, in form, historical dramas: how far the former is consistent with fact, we are able to judge from the history of Herodotus; but whether the war of the seven Peloponnesian chieftains against Thebes, and the storming of its seven gates, has any foundation in reality, or is the mere creation of an inventive fancy, can never be known, as the events, if they ever occurred, were not registered by any credible witness. If, indeed, the drama of Æschylus was the only extant narrative of the invasion of Greece by Xerxes, we might, assuming that the dates both of the war and the poet were known, independently, by sure evidence, infer that the account was substantially historical. A similar argument would apply to the historical poem of Nævius, respecting the first Punic war. But Homer makes no claim to contemporary knowledge: instead of appealing to it, he disavows it in express terms;⁽¹⁴⁾ and neither his date, nor that of the Trojan war, is known to us by authentic tradition.

The ancient narrative poetry of Greece, both epic and dramatic, is full of supernatural incidents—of the personal agency of gods, divine beings, and heroes—and is improbable in itself, independently of its want of sufficient attestation. The same remark applies to the epic of Tasso: if we had no authentic account of the first crusade, we should disbelieve the description of the enchantments of Armida. But a fictitious narrative may be so framed as to resemble truth: and if internal evidence were alone consulted, it would be often hard to distinguish between fiction and fact. Fiction may, indeed, be easily rendered specious, if that object is alone kept in view: the difficulty is to make a fictitious

(141) ἡμεῖς δὲ κλέος οἶον ἀκούομεν, οὐδὲ τι ἴδμεν.

Iliad, ii. 486.

Hence the poet invokes the aid of the muses, who, being goddesses, are omnipresent and omniscient.

story probable, without at the same time making it dull. Improbable incidents are generally resorted to by writers of fiction for the sake of giving interest to their story.⁽¹⁴²⁾ Le Sage, De Foe, and Miss Austen, are the great models of interesting probability in fiction. These writers possess the rare art of investing ordinary events with an interest which inferior writers vainly seek in horrors, in violent contrasts, and in all the varieties of tasteless exaggeration.

Aristotle, in his *Poetic*, has laid it down that fiction is more philosophical than truth, because the one is concerned with generals, the other with singulars.⁽¹⁴³⁾ Pictitious tales, written to illustrate

(142) 'Whether it be that we comprehend but few of the possibilities of life, or that life itself affords little variety, every man who has tried knows how much labour it will cost to form such a combination of circumstances, as shall have at once the grace of novelty and credibility, and delight fancy without violence to reason.'—Johnson's *Life of Butler*.

(143) Διὸ καὶ φιλοσοφώτερον καὶ σπουδαιότερον ποίησις ἱστορίας ἐστίν· ἢ μὲν γὰρ ποίησις μᾶλλον τὰ καθόλου, ἢ δ' ἱστορία τὰ καθ' ἕκαστον λέγει.—*Poet.* c. 9; where Twining (vol. i. p. 127) translates:—'On this account poetry is a more philosophical, and a more excellent thing, than history.' Tyrwhitt more correctly renders σπουδαιότερον by *gravior*. The meaning is, 'more weighty,' 'more important,' 'more pregnant with consequences.' It appears to me that Aristotle (*ib.*) is mistaken in saying that the history of Herodotus, turned into metre, would not be poetry. The only available test for poetry is its metrical form; whether any given poem possesses the excellences which characterize poetry, is another question. There may be prosaic poetry, as there may be poetical prose; but the test, in either case, of the class to which the composition belongs, is the *form*. Concerning this passage, see the remarks of Creuzer, *Hist. Kunst der Griechen*, p. 211.

The following passage prefers fiction to history on similar grounds:—'Je crois qu'en examinant la chose de près, on trouvera l'histoire bien inférieure à la fiction; lorsque celle-ci est employée de la seule manière qui convienne à un sage écrivain, c'est-à-dire, dans l'intention de former les mœurs. L'histoire n'est par elle-même qu'un amas de faits, et la suite des actions des hommes n'est assez souvent, à l'extérieur, qu'une suite de projets manqués et de crimes impunis. Le spectacle de ce qui s'est passé dans le monde, n'est pas autre, à la rigueur, que le spectacle de ce qui se passe dans une place publique: l'un et l'autre de ces deux spectacles, n'est moral que par les réflexions du spectateur ou du relateur. En un mot l'histoire, prise en elle-même, est plutôt un objet, qu'une doctrine.

'Il n'en est pas ainsi d'un ouvrage de fiction. L'auteur moral, s'il prend la forme de narration, se propose ordinairement d'indiquer et de représenter toutes les vertus propres à l'état ou à la condition de son héros. Il le place dans toutes les conjonctures qui peuvent donner lien à l'exercice de ses vertus. Il l'oppose, non-seulement à de méchants hommes, mais à des hommes d'une vertu foible et chancelante; afin que leur comparaison avec lui, donne un plus grand lustre au caractère du personnage principal. Il accompagne ses peintures de jugemens portés, et d'avis formels. En

a certain principle, and to convey a certain moral, may doubtless be more instructive than a series of events, such as usually occur in history, leading to no one obvious conclusion, but forming merely a miscellaneous chapter in the great chronicle of human affairs. Such tales, however, are always open to the criticism of the lion in the fable: a person who holds a different opinion may write a counter-tale, proving the contradictory proposition from a different set of arbitrary facts. Moral tales are in fact merely imaginary cases, showing how a certain principle may operate under certain hypothetical circumstances; and it is of course open to any other person to imagine the same principle at work under different hypothetical circumstances. A narrative of actual facts, however, always possesses for scientific purposes a value beyond any hypothesis, which never can enlarge our experience, however it may serve to assist our reasonings. It cannot be too often repeated, that the business of the historian is to register events which have actually occurred: whatever comments he may make upon them, however he may illustrate them by parallel occurrences, and whatever reflections they may suggest to him, still he ought never to lose sight of his primary function. Nor would it be any reason for him to invent facts, instead of recording them, that a fictitious narrative might be made instructive and useful.

§ 18 There is another perversion of history, which does not properly fall under either of the heads above considered. It is not fraudulent, or dictated by political or religious bias; it is not the result of any personal or party interest; it does not spring from the dislike of the labour necessary for a proper search after truth; nor is it properly caused by a love of the marvellous. Nor, again, is it prompted by any desire to improve or instruct, or presented as a fictitious vehicle for a moral lesson. This

un mot, il rend l'instruction complète, et par les leçons et par les exemples. On réuniroit ou l'on fondroit ensemble plusieurs grands hommes de l'histoire, et l'on rassembleroit les évènements de bien des siècles, avant que d'y rencontrer les sujets d'admiration, et d'imitation, qu'un bon auteur de fiction fait trouver dans une partie souvent assez petite de la vie d'un seul héros.—Terrasson, *Sethos*, préf. p. ii.

is mythical history—the legendary figments of an age which has a craving for narratives of the past; of the achievements of its great men, and their adventures and exploits: but is destitute of any proper criterion of historical truth, and accepts, with an uninquiring and undoubting faith, any narratives which are in accordance with its religious and patriotic sentiments. The original author of such a legend must, no doubt, be at first conscious that it is the spontaneous product of his own invention, unattested by any external evidence. But the fiction is suggested by prevailing ideas and feelings: it interweaves existing facts and customs into its texture: it furnishes an apparent support to institutions or practices for which the popular mind seeks an explanation: it fills a void which is sensibly felt, and supplies food for an appetite whose demands are at once urgent and general. The inventor of such a legend, therefore, differs altogether from the author of a novel or romance, who lays before the public a tale avowedly fictitious, and which they accept as such. Still more does he differ from an antiquarian pseudographer, who, like Macpherson and Chatterton, fabricates compositions which he attributes to a past generation. Though originally conscious of the unhistorical character of his legend, he may even acquire, by a constant repetition of the story, a partial belief in its truth, especially as he has been accustomed to see it believed by his hearers: his mind fluctuates in an ambiguous state of imperfect consciousness as to its origin, and he is very far from entertaining the sense, either of having told a deliberate lie, or of seeking to amuse or instruct the public by a plausible fiction. His mental retrospect is wholly unlike both that of the writer who has wilfully misrepresented facts, or falsified documents, for personal or political purposes, and that of the romance-writer or novelist. Those, again, who hear and accept the legend, repeat it with unconscious variations and additions, dictated by similar feelings, and conceived in the same state of mind.

This is the spirit in which the legends of early Assyrian, Lydian, and Persian history—of the copious and graceful mythology of the Greek heroic age—of the fabulous heroes of mediæval chivalry, and of the acts of some of the me-

diæval saints, were composed. Without being dictated by a fraudulent design, they are calculated to deceive, if taken as the recital of actual facts, of events which ever passed under the observation of human eyes and ears. They cannot be read aright, if read in this simple and direct manner. It is true that they were meant to be believed by their contemporaries, and that their contemporaries believed them, in their naked and literal form. The first hearers of the Homeric poems doubtless believed that Achilles fought with the river Scamander, and that his horses shed tears when they predicted his fate. The early Romans believed that their heroic progenitors were suckled by a she-wolf. The mediæval Catholic believed that the five stigmata had been visibly impressed on St. Francis, and that the infant Christ was preternaturally heavy when he was carried over the river by St. Christopher. The hearers of the ballad about Robin Hood believed that he had shot in Sherwood Forest. All attempts to rationalize the legends of ancient or modern mythology, to separate a historical nucleus from its fabulous covering, to distil truth from fiction by a process of analytical reasoning,⁽¹⁴⁾ to convert the mythical narratives into physical or ethical allegories, full of recondite instruction about the phenomena of nature, or the conduct of life, are misleading and mischievous if intended seriously, and, at the best, a mere learned trifling, and exercise of an otiose ingenuity.⁽¹⁵⁾ Impor-

(144) Speaking of the histories of the Council of Trent, by Sarpi and Pallavicini, Ranke observes:—'It has been said that the truth is to be obtained from the collective results of these two works. Perhaps, as regards a very general view, this may be the case; it is certainly not so as to particulars. They both wander from the path of truth, which certainly lies between them; *but truth cannot be seized by conjecture; truth is too positive and too original, and is only to be got at by a review of facts, and not by an attempt to reconcile conflicting statements.*'—*Hist. of the Popes*, vol. 3, app. p. 79. What is here said of hypotheses, made for the purpose of reconciling conflicting statements, applies with still greater force to the hypotheses made for eliciting truth out of a fictitious narrative.

(145) See Lord Bacon's interpretation of the Greek mythology in his *Wisdom of the Ancients*, vol. iii. and xi. of his works, ed. Montagu. However, in speaking of such allegorical interpretations, in his *Advancement of Learning*, he shows that he was aware of their emptiness:—'Nevertheless, in many the like encounters, I do rather think that the fable was first, and the exposition then devised, than that the moral was first, and thereupon the fable framed.'—*Ib.* vol. ii. p. 123.

tant inferences may, however, be drawn from such legends, if they are viewed in a different light. They can give no information as to the times which they profess to portray, but they give authentic information as to the time when they originated. They describe imaginary events; but the ideas, knowledge, feelings, customs, manners, political and social institutions, state of the arts, which the descriptions involve, are not imaginary. We may disbelieve Homer, when he tells us that Troy was besieged by the Greeks to avenge the abduction of Helen by Paris, and was taken, after a ten years' siege, by the stratagem of the wooden horse. We may even refuse to admit his testimony as sufficient to prove that any war of Troy actually occurred.⁽¹⁴⁶⁾ But we cannot doubt that the atmosphere in which his heroes move—their mode of living, thinking, fighting, governing, was really the social atmosphere of the primitive times of Greece. In proportion as the age was destitute of what has been termed a *historical sense*,⁽¹⁴⁷⁾ as it believed any fictitious tale which accorded with its feelings and anticipations; in the same proportion was the formation of legends traceable to no definite source, and springing from an invention nearly unconscious, likely to occur. Whatever improvement the 'tale of Troy divine' may have undergone in the hands of Homer, we may be sure that the outlines of it were borrowed from floating popular narratives; and that Paris and Helen, Agamemnon and Achilles, Priam and Hector, were as little due to his invention, as Dido and her sister Anna, Evander and Turnus, Lavinia and Camilla, were personages imagined by Virgil. On the other hand, the barren lists of royal dynasties and genealogical descents, traced up to a divine or heroic ancestor, often consisting of mere names, unaccompanied by any events, with which the beginnings of Assyrian, Egyptian, Greek and Italian history are filled, must be the

(146) Speaking of the stories of mythology, Ovid says:—

'Exit in immensum fecunda licentia vatam,
Obligat historicâ nec sua verba fide.'—*Amor.* iii. 12, v. 41.

(147) This was still the state of the Greeks in the time of Herodotus, according to M. Daunou, tom. ix. p. 541.

conscious work of chronologers, who co-ordinated occurrences according to reigns, and computed time by successive generations; they are the mere cobwebs of a learned brain, and are not entitled to take rank with the mythical effusions of popular feeling, which, though not expressive of real facts, nevertheless involve realities.⁽¹⁴⁸⁾

§ 19 Lord Bacon makes three stages of foregone time, with respect to our knowledge of its events. Primeval antiquity (he says) is involved in oblivion and silence. The silence of antiquity is followed by the fables of the poets, and these are succeeded by the writings of historians.⁽¹⁴⁹⁾ Now the canons of evidence with respect both to fables and to contemporary histories are clear. Fables are altogether unworthy of belief; and the testimonies of contemporary historians must be subjected to the same tests as the testimony of other witnesses. But it is less easy to lay down any practical rule for the transition period between fable and contemporary history. It is hard to establish any test for discriminating between truth and fiction in the first dawn of history—in that period when contemporary registration was scanty and imperfect, and facts were handed down by oral traditions, which were collected, recorded, and arranged, by posterior writers. In the language of recent investigators of antiquity, this period is called the *mythico-historical* period; and the problem may therefore be stated thus: it being admitted that mythical narratives are to be discredited, and that historical narratives are to be tried by the ordinary rules of evidence, what are the canons of credibility with respect to a mythico-historical story?⁽¹⁵⁰⁾

(148) M. Daunou (tom. viii. p. 253) observes, that the fact that historical fictions have been believed, is important.

(149) 'Antiquitatem primævam (exceptis quæ in sacris literis habemus) obliuio et silentium involuit: silentia antiquitatis fabulæ poetarum exceperunt: fabulis tandem succedere scripta quæ habemus; adeo ut antiquitatis penetralia et recessus a sequentium seculorum memoriâ et evidentiâ, tanquam velo fabularum, discreta et separata sint; quod se interposuit et objecit medium inter ea quæ perierunt et ea quæ extant.'—*De Sap. Vet.* præf. vol. xi. p. 271.

(150) The period in question is thus characterized by Niebuhr:—'With Tullus Hostilius there begins a new æcle, and a narrative resting on

This question can, indeed, be readily answered in general terms, upon the principles already ascertained. No event of a mythico-historical period can be admitted as true, which is not vouched by authentic contemporary testimony. In this respect, it is precisely similar to a historical age. Whatever portion of a mythico-historical narrative represents real fact, must be proved by the same evidence as a purely historical narrative. The difficulty of the subject lies, not in the rule of evidence, but in its

historical ground, of a kind totally different from that of the preceding period. Between the completely poetical age, which stands in a relation to history altogether irrational, and the purely historical age, *there intervenes in all nations a mixed age, which may be called the mythic-historical.* It has no precise limits; but it reaches to the point where contemporary history begins; and its character is the more strongly marked, the richer the nation has been in heroic lays, and the less later writers, neglecting those songs, and without calling up in their minds any distinct image of the past, have filled up the void in its history from monuments and authentic documents. The relation of such poetical history to mythology is, that *the former always has and must have a historical foundation*—that it borrows its materials mainly from history, as transmitted in free narrative, while the latter takes them from religion and from poems on a larger scale, and does not give itself out to be a possible history of the common order of things in the world; although, so long as it confines itself to the earth, it can have no other theatre. To the latter kind, for instance, belong Hercules, Romulus, and Siegfried; to the former, Aristomenes, Brutus, and the Cid. On the confines of mythology poetry is predominant, at the opposite end history. Of the men named during the period we are entering upon, but few are imaginary; many chronological statements from the yearly registers have all the definiteness that can be expected for so dim an age; but then the historical part of our information is confined to this.—*Roman History*, vol. i. p. 209-10; and compare the introductory chapter to vol. ii.

Mr. Macaulay, in the preface to his *Lays of Ancient Rome*, after adverting to the lateness of the earliest Roman historians, and to the imperfect information which was at their command, proceeds as follows:—‘Under these circumstances, a wise man will look with great suspicion on the legend which has come down to us. He will, perhaps, be inclined to regard the princes who are said to have founded the civil and religious institutions of Rome—the son of Mars, and the husband of Egeria—as mere mythological personages, of the same class with Perseus and Ixion. As he draws nearer and nearer to the confines of authentic history, he will become less and less hard of belief. He will admit that the most important parts of the narrative have some foundation in truth. *But he will distrust almost all the details*, not only because they seldom rest on any solid evidence, but also because he will constantly detect in them, even when they are within the limits of physical possibility, that peculiar character, more easily understood than defined, which distinguishes the creations of the imagination from the realities of the world in which we live.’—p. 4. The words *mythistoria* and *mythistoricus* are used by writers in the Augustan history.

application. In general, a modern inquirer has no means of distinguishing between facts which may have been derived, through numerous intermediate but unknown links, from an authentic contemporary account, and those facts which have been fabricated, distorted, or defaced by subsequent oral tradition, or by intentional falsification. Where the narrative sins against the laws of internal probability, his suspicions of its truth may be awakened, but in general he is unable to subject the external testimonies to any satisfactory test.

The uncertainty of historical evidence for that mixed period which is anterior to a time of full contemporary registration, is owing, not to its antiquity, but to the late epoch at which its events are recorded, and to the consequent difficulty of separating true from fictitious oral accounts. Time alone, as we have seen above, does not weaken historical evidence, though it has been sometimes supposed to produce this effect. Thus, Livy compares the obscurity caused by distance of place, with the obscurity caused by distance of time.⁽¹⁵¹⁾ Now, distance of space necessarily obscures an object; but distance of time produces no such effect, if the contemporary accounts are full and correct, are reduced to writing, and are in this state handed down with fidelity. For the period of Roman history referred to by Livy, the contemporary accounts were scanty and meagre; and hence (and not by reason of its antiquity) its history was obscure.⁽¹⁵²⁾

(151) *Res vetustate nimia obscuras, velut quæ ex magno intervallo loci vix cernuntur*, vi. 1. Again, in iv. 23, he says:—'*Sed inter cetera vetustate incomperta hoc quoque in incerto positum.*' In i. 3, '*Quis rem tam veterem pro certo affirmet.*' In ii. 4, he speaks of certain names—'*Quorum vetustate memoria abiit.*'

Silius expresses the same idea:—

'*Multa retro rerum jacet, atque ambagibus ævi
Obtegitur densa caligine mersa vetustas.*'—viii. 44-5.

Cicero describes the belief that Numa was a Pythagorean, as having sprung up among a later generation, who had heard of the discipline of Pythagoras, and of the wisdom and equity of Numa.—'*Ætates autem et tempora ignorarent propter vetustatem.*'—*Tusc. Disp.* iv. 1.

(152) Livy speaks of the difficulty of determining certain historical facts, '*in tantâ vetustate non rerum modo, sed etiam auctorum,*' ii. 21. It was not, however, the antiquity of the authorities for the early Roman

Where no contemporary record has been made, the only facts which can be ascertained are those which are remembered by the living generation, and those of which they have received from their predecessors an authentic oral tradition. Hence Thucydides truly says, respecting the events of Greek history, that 'those immediately before his own life, and those of a still earlier date, were hard to discover, on account of the length of time which had elapsed since their occurrence.' The length of time, however, would not have rendered them obscure, if they had been correctly recorded in writing at the time when they happened, and the record had been preserved. Again, he remarks that ancient events are difficult to authenticate by a continuous chain of evidence; and he speaks of such events being 'established by the clearest proofs which their remoteness permits.'⁽¹⁵³⁾ This difficulty of proof, however, arises from the want of a contemporary register, and from the consequent necessity of resorting to the loose and unfaithful reports of oral tradition; not from the mere lapse of time since the occurrence of the events.

The periods of time in Greek and Roman history, between the first Olympiad and the Persian war, and between the reign of Tullus Hostilius and the Punic wars, will illustrate these remarks. The earliest Greek writers, who occupied themselves with the real history of their country, were born in the early part of the fifth century before Christ.⁽¹⁵⁴⁾ The earliest Roman

history—on the contrary, it was their lateness, which made their accounts uncertain. If the testimony of any good contemporary writer had been in existence, Livy would have had no cause to complain of the uncertainty of the events of this period.

(153) Τὰ γὰρ πρὸ αὐτῶν καὶ τὰ ἔτι παλαιότερα σαφῶς μὲν εὐρεῖν διὰ χρόνον πλεῖστον ἀδύνατα ἦν.—Thuc. i. 1.

Again, τὰ μὲν οὖν παλαιὰ τοιαῦτα εὖρον, χαλεπὰ δὲ παντὶ ἐξῆς τεκμηρίῳ πιστεῦσαι (i. 20). "Ὅντα ἀνεξιλέγκτα καὶ τὰ πολλὰ ὑπὸ χρόνον αὐτῶν ἀπίστωται ἐπὶ τὸ μυθώδες ἐκνευκηκότα, εὐρησθαι δὲ ἡγησάμενος ἐκ τῶν ἐπιφανιστάτων σημείων ὡς παλαιὰ εἶναι ἀποχρίνωνται.—Ib. c. 21.

In c. 20, he speaks of errors about contemporary facts, as οὐ χρόνον ἀμνηστούμενα; contrasting them with errors about facts which had occurred many years ago.

(154) Hellanicus was born 496 B.C. Herodotus was born 484 B.C., four years before the expedition of Xerxes, and twenty-six years after the

historians flourished at the time of the second Punic war.⁽¹⁵⁵⁾ Even, therefore, if we assign everything before the first Olympiad and the reign of Tullus Hostilius, in the Greek and Roman histories respectively, to fable and total darkness, yet there remains a crepuscular period, in the one case, of above two hundred and fifty—in the other, of above four hundred years, in which there was no contemporary history, and of which the memory could only have been preserved by inscriptions and state registers, family memorials, poems, and oral tradition.⁽¹⁵⁶⁾ Now, as we

expulsion of the Pisistratids. Thucydides was born 371 B.C. The life of Hecateus extended from about 550 to 476 B.C.; he was therefore born about sixty-six years before Herodotus, and died before the birth of Thucydides. His writings were, however, confined to mythical and geographical subjects. Hellanicus, too, is described by Thucydides as having related the events of Athenian history between the Persian and Peloponnesian wars, 'briefly and inaccurately as to chronology,' i. 97. The early Greek historians are well characterized in Müller's *History of Greek Literature*, c. 18.

(155) These were Q. Fabius Pictor and L. Cincius Alimentus.—See Krause, *Fragm. Hist. Rom.* p. 38, 63; *Fragm. Hist. Gr.* vol. iii. p. 80, 94, ed. Didot; Niebuhr's *Lectures*, ed. Schmitz, vol. i. p. 27-32. Fabius Pictor was present in the Gallic war of 225 B.C. The second Punic war began in 218 B.C. Nævius was born between 274-64 B.C. He lived in the first Punic war, and wrote a poem in Saturnian verse upon it, which, in respect of its historical character, may be compared with the *Perseæ* of Æschylus.

(156) The periods referred to are, for Greek history, 776-500 B.C.; for Roman history, 673-264 B.C. If the mythico-historical age of Greece is carried up to the return of the Heraclids, the former period will be 1103-500 B.C., above 600 years.

Beaufort, in his *Dissertation sur l'Incertitude des Cinq Premiers Siècles de l'Histoire Romaine* (Utrecht, 1738), thus fixes the beginnings of Greek history:—'Dès que l'on veut remonter au delà des Olympiades, c'est un labyrinthe où l'on se perd. Ce n'est que depuis cette fameuse époque, qu'on commence à trouver quelque solidité dans cette histoire, et encore n'est ce que sur un petit nombre de faits que cette lumière se répand. Mais c'est principalement depuis que les Perses entreprirent de subjuguier la Grèce, que ce peuple commença à s'appliquer à transmettre à la postérité, et à consacrer la mémoire de ces grands événements, auxquels ces guerres donnèrent lieu, et dont leur nation retira tant de gloire. Tout ce que l'on nous débite des temps antérieurs est peu sûr, et appuyé sur des fondements peu solides.'—p. 3.

'Writing was probably known in Greece some centuries before the time of Cadmus of Miletus, the earliest Greek historian; but it had not been employed for the purpose of preserving any detailed historical record. The lists of the Olympic victors, and of the kings of Sparta, and the prytanes of Corinth, which the Alexandrian critics considered sufficiently authentic to serve as the foundation of the early Greek chronology; ancient treaties, and other contracts, which it was important to perpetuate

have in general only the results of the researches made by the ancient writers with respect to this intermediate period—this debateable land between fable and history—and as we are not fully informed of the materials which the original framers of the extant narrative used, it is difficult for us to judge of the credit which it may deserve. How far the events of this time may have been recorded in public annals, and inscriptions on stone and metal; how far there may have been an authentic contemporary registration of kings, magistrates, or priests, which furnished a complete chronological series; how far this skeleton of history may have been filled up by narrative poems, odes, family panegyries, and correct oral traditions, is a question which our information rarely enables us to decide.

That in a period when historical writing is scanty, events may be handed down by oral tradition, in a substantially correct form, for a considerable length of time, among an intelligent and cultivated people, cannot be doubted. Thus, Thucydides describes the Athenians, in the panic caused by the affair of the Mercuries, and their fear of treasonable machinations, as reverting to the oppressive government of Pisistratus and his sons, which they knew by oral tradition.⁽¹⁵⁷⁾ The interval between the two periods exceeded a century.⁽¹⁵⁸⁾ Thucydides, indeed, takes occasion to

in precise terms; determinations of boundaries, and other records of a like description, formed the first rudiments of a documentary history. Yet this was still very remote from a detailed chronicle of contemporary events.—Müller, *Hist. of Gr. Lit.* c. 18, § 2. Compare the important chapter in Müller's *Dorians*, b. i. c. 7, where he enumerates and examines the various sources of information respecting the events in Peloponnesus, for the period antecedent to contemporary history.

Dionysius states that the common object of the early Greek historians (anterior to Herodotus and Thucydides) was to collect and publish, for general use, the local accounts which were preserved in the several cities, some in sacred, and others in civil depositories, and had been handed down from father to son.—*De Thuc. Hist. Jud.* c. 6 and 7. What the contents of these accounts were, by whom they were registered, and when the registration began, we are, in great measure, ignorant.

(157) Ἐπιστάμενος γὰρ ὁ δῆμος ἀκοῇ τὴν Πεισιστράτου καὶ τῶν παίδων τυραννίδα χαλεπὴν τελευτᾶσαν γεγεμένην, vi. 53. And again, ὡν ἐνθυμούμενος ὁ δῆμος ὁ τῶν Ἀθηναίων, καὶ μυνησκόμενος ὅσα ἀκοῇ περὶ αὐτῶν ἤπισται. *Ib.* 60. Compare i. 20, where he mentions the confusion of Hippias and Hipparchus at Athens, as an instance of the inaccuracy of oral tradition: also, i. 18.

(158) The despotism of Pisistratus began in 560 B.C. The expulsion of

show that the received version of the story respecting the expulsion of the Pisistratidæ, and the latter part of their rule, was incorrect in several particulars; and in so doing, he refers to oral accounts, more accurate than the current ones, and also to public inscriptions;⁽¹²⁹⁾ but he assumes that the main outline of the facts respecting the government of the Pisistratidæ was generally known to his countrymen, by means of oral, not written accounts, about a century after their occurrence.

The legislation of Solon, which is placed at 594 B.C., more than a century before the birth of Thucydides, is not mentioned by that historian, and is only alluded to by Herodotus.⁽¹³⁰⁾ The later writers, whose accounts of it are now extant, derived their information respecting it partly from the poems and laws of Solon, which were preserved, and partly from oral traditions, of unequal and uncertain value. The attempt of Cylon to seize

the family was in 510 B.C. The affair of the Mercuries 415 B.C. Thucydides speaks of about a hundred years having elapsed was in 411 B.C., since the Pisistratidæ had been expelled, and the people enjoyed self-government, viii. 68.

(129) *Ὅτι δὲ πρῶτος ὢν Ἰππίας ἤρξεν, εἰδὼς μὲν καὶ ἀκοῇ ἀκρεβέστερον ἄλλων ἰσχυρίζομαι, vi. 55. Thucydides was born only thirty-nine years after the expulsion of the Pisistratidæ. There is a statement that Thucydides was descended from the family of the Pisistratidæ.—Marcellin. *Vit. Thuc.*; Hermipp. *Fragm.* 54, vol. iii. p. 48, Didot; but its authority is doubtful. Herodotus (v. 55) calls Hippias the despot, at the time of the assassination of Hipparchus. Even the accurate and diligent Aristotle adopts the popular belief of the Athenians (embodied in the famous *Scolion*, ἐν μύθῳ λαβὴ, &c.), and represents the government of the Pisistratidæ as having been destroyed in consequence of the insult offered to Harmodius and his sister, *Pol.* v. 10.

Plutarch, *Per.* 7, states that the very old men (οἱ σφόδρα γέροντες) were struck with the resemblance of Pericles, in face and voice, to Pisistratus. The same anecdote is dramatized by Val. Max. viii. 9, ext. 2. Pericles came forward as a public man in 469 B.C., and Pisistratus died in 527 B.C. The interval is fifty-eight years, and therefore the fact is quite possible. The comic poets called the youthful companions and partizans of Pericles by the sarcastic nickname of Pisistratidæ, *Plut. id.* c. 16. The allusion must, at that time, have been familiar and intelligible to the audience. Other circumstances might serve to keep up the memory of the Pisistratids. Thus, the Athenians brought the grand-daughter of Aristogiton from Lemnos, and gave her, with a dowry, in marriage to a man of good family (Plutarch, *Cimon*, 27). Hipparchus, a kinsman of the Pisistratid, was the first person ostracized.—*Plut. Nic.* 11. There was also in the Acropolis of Athens a statue of Leena, the mistress of Aristogiton, which had been erected in memory of Hippias and Hipparchus, *Paus.* i. 23. § 1, 2.

(130) i. 29, ii. 177.

the Acropolis, and make himself despot, which took place about 612 B.C., is the earliest event, with names, details, and a probable date, in Athenian history.⁽¹⁶¹⁾ This attempt gave rise to a hereditary curse (like corruption of blood, in the old law of treason) in the powerful family of the Alcmaeonidæ: its memory was revived by Cleomenes, who expelled some of the tainted persons in 510 B.C.,⁽¹⁶²⁾ and it was again brought forward by the Lacedæmonians, for the purpose of removing Pericles, who was, by descent, included within the curse, in 432 B.C. A fact of this sort, giving rise to a hereditary religious disqualification,⁽¹⁶³⁾ and twice revived, at intervals of a century, by the public acts of a foreign state, was likely to live for a long time in the popular memory.

If we look to a higher period in Athenian antiquity for a historical event, the only one which seems at all worthy of that name is the supposed consolidation of Attica; respecting which we are assured by Thucydides, that Theseus combined all the cantonal cities of Attica, and formed them into one state, having the Athenian Acropolis for its centre.⁽¹⁶⁴⁾ This operation is treated by modern critical writers as substantially historical, though its author and date are admitted to be undetermined.⁽¹⁶⁵⁾

(161) Cylon had gained an Olympic prize in the year 640 B.C. A statue of him was shown at Athens (Paus. i. 28, 1). The legislation of Draco, which appears to be historical, is placed a short time before the affair of Cylon, viz. 621 B.C. Demades was the author of the saying, that the laws of Draco were written, not with ink, but with blood.—Plut. *Solon*, 17.

(162) Herod. v. 70-2. Thuc. i. 126. Plut. *Sol.* 12; *Pericl.* 33.

(163) Καὶ τὸ γένος αὐτῶν ἴσταν ἴτι ἐν τῇ πόλει, says Thucydides, i. 126.

(164) ii. 15-6. Compare Plutarch, *Thes.* 24.

(165) See Wachsmuth, i. 1, p. 226. Thirlwall, vol. ii. p. 8. Grote, vol. iii. p. 68, 91. Mr. Grote says:—'Of the general fact there is no reason to doubt, though the operative cause assigned by the historian, the power and sagacity of Theseus, belongs to legend, and not to history.' If we assume the date of Eratosthenes for the capture of Troy, viz. 1184 B.C. Theseus, who must be placed before that event, would have lived more than seven centuries before the birth of Thucydides. Plutarch reckons only a period of nearly four hundred years from the lifetime of Theseus to that of Cimon, who brought his supposed bones from Scyros to Athens (*Cimon*, c. 8); but the number appears to be corrupt, and has been changed by the editors into eight hundred. Compare the account in Plut. *Thes.* 36; Paus. iii. 3, § 6.

Now, unless the event in question was known to the later Athenians by a faithful oral tradition, ascending to contemporary witnesses, it rested on no satisfactory evidence. Whether this was the case, the narrative of Thucydides, and of other subsequent writers who mention the event,⁽¹⁶⁶⁾ does not enable us to judge: the existence of a (supposed) commemorative festival of Synœcia is, of itself, no conclusive proof.⁽¹⁶⁷⁾

As to the early period of Lacedæmonian history, it is still more difficult for the modern inquirer to determine on what sort of contemporary evidence the extant accounts rest. The Lacedæmonians were indeed strongly attached to ancient usage, and to established institutions;⁽¹⁶⁸⁾ and they were, on this account, likely to cherish and preserve the memory of their forefathers. But the legislation of Sparta discouraged literature; and even in the literary age of Greece, the Lacedæmonians had no native historians.⁽¹⁶⁹⁾ Their history was written by foreigners; there never was a Spartan Thucydides to collect and fix the authentic oral traditions of his country. If, therefore, we are destitute of any certain account of events in Athenian history prior to the end of the sixth century before Christ, we must expect still greater uncertainty with respect to the Messenian wars, which

(166) Philochorus mentions twelve cities as founded by Cecrops, which were consolidated by Theseus, *Fragm.* 11; ed. Didot., cf. *Fragm.* 4, where another account of the consolidation of Attica is given. Charax, a writer who lived in the time of the Antonines, says that Theseus incorporated the eleven cities with Athens, and instituted the Synœcia.—Steph. Byz., in *Ἀθήναι*, *Fragm. Hist. Gr.* vol. iii. p. 637, ed. Didot. As to Cecrops having collected the inhabitants of Attica, who previously lived in open, unwall'd villages, into eleven cities, see *Etym. Mag.* in *ἐνῶπρια*. Compare Cic. *de Leg.* ii. 2; Val. Max. v. 3, ext. § 3, and Schoemann, *Jus. Publ. Gr.* p. 164.

(167) See below, ch. x. § 4, with respect to the evidence furnished by commemorative festivals.

(168) Heraclides Ponticus (*ap. Athen.* xiv. p. 624 C.) remarks that the Lacedæmonians were distinguished from all the other Dorians by their tenacity to their ancient institutions. They are also said to have listened with pleasure to accounts of the races of heroes and men, of the ancient colonies, and in general of antiquity.—Plat. *Hipp. Mag.* c. 12.

(169) Müller's *Dorians*, b. iv. c. 8, § 1. Manso (*Sparta*, vol. i. part ii. p. 70) remarks that nearly all the writers on the Spartan state were foreigners. The work of Dicaearchus on the Spartan constitution was annually read to the youths in the ephors' office.—*Fragm. Hist. Gr.* vol. ii. p. 241. He was a native of the Sicilian Messene.

are reported to have begun in 743, and, after an interval of quiet, to have been terminated by the subjugation of Messenia, and its annexation to Lacedæmon, in 668 B.C. Tyrtæus, whose complete poems were extant in antiquity, preserved a contemporary record of the second war; while he speaks of the first war as having been waged by the grandfathers of the living generation—a period within the reach of correct oral tradition.⁽¹⁷⁰⁾ No details respecting the conquest of Messenia occur in the earlier historians; but after the restoration of Messenia by Epaminondas had invested its struggles against Sparta with a patriotic interest, a class of writers arose, who produced a copious narrative of those ancient wars.⁽¹⁷¹⁾ This narrative, which is preserved by Pausanias, bears the marks of romantic fiction in its details, and is only trustworthy in its broad outlines.⁽¹⁷²⁾ The legislation of Lycurgus is referred by the ancients to dates not later than the ninth century before Christ;⁽¹⁷³⁾ this would be three centuries and a half before the birth of Herodotus, who briefly mentions him as the author of the principal institutions of Sparta.⁽¹⁷⁴⁾ Plutarch, in his detailed account of the life of Lycurgus, refers to no ancient witnesses or authentic traditions—even the rhetras (or fundamental laws), which he attributes to Lycurgus, contain no internal mark connecting

(170) Παρίπων ἡμερίπων παρίπες, *ap. Paus.* iv. 15. See above, n. 74.

(171) The two writers whom Pausanias followed (see iv. 6) were Myron of Priene, a historian, and Rhianus, an epic poet. The latter is placed by Mr. Clinton at 222 B.C.—See *Fragm. Hist. Gr.* vol. iv. p. 460. Didot.

(172) See Manso, i. 2, p. 270; Müller's *Dor.* b. i. c. 7, § 9; Grote, vol. ii. p. 555-8.

(173) See Clinton, *Fast. Hell.* vol. i. p. 141; Fischer, *Griechische Zeitfabeln*, p. 33-42. The statement of Herodotus, that Lycurgus was the guardian of Labotas, would, according to the received chronology of the Spartan kings, place him at 996 B.C., more than a century earlier; while Xenophon (*Rep. Lac.* 10, § 8) places him at the return of the Heraclidæ. Thucydides, i. 18, however, fixes the *εὐνομία*, or legislative reformation of Sparta, which may be taken as equivalent to the legislation of Lycurgus, at rather more than 400 years before the end of the Peloponnesian war, 404 B.C.

A statue of Hercules and a bust of Lycurgus stood on the two bridges which led to the place of exercise for the youths at Sparta.—Paus. iii. 14, § 8. This bust was doubtless of the same character as the portraits of the early Scottish kings at Holyrood Palace.

(174) i. 65-6.

them with that lawgiver, or with any other person.⁽¹⁷⁵⁾ Their times and authors are uncertain; we are not told in what building the originals were preserved, or by whom they were transcribed; and the genuineness of some of them has been doubted.⁽¹⁷⁶⁾ The accounts preserved respecting the early events of other Peloponnesian states—as of the period of the Bacchiadae and the Cypselidae at Corinth—of the reign of Phidon at Argos, and of that of Cleisthenes at Sicyon—are subject to similar uncertainty, on account of our ignorance of the sources from which they were originally derived.

Livy says that the events of Roman history, from the foundation of the city until its capture by the Gauls, (753 to 387 B.C.) are obscure and uncertain; because very little was committed to writing in that period, and the few records, public and private, which existed, chiefly perished in the conflagration of the city. ‘From that epoch,’ he adds, ‘the history becomes clearer and more certain.’⁽¹⁷⁷⁾

Rome, however, had no historian, native or foreign, who wrote a continuous narrative of the events of his own or of the previous times, until the second Punic war.⁽¹⁷⁸⁾ Q. Fabius Pic-

(175) See Plut. *Lyc.* 6, 13.

(176) See Schoemann, *Jus. Publ. Gr.* p. 132. Compare the detailed authentication of the copy of the treaty between Rome and Carthage, in Polyb. iii. 22, 26; and of other more ancient Roman treaties in Dion. Hal. i. 26, 58. The treaties inserted by Thucydides in his fifth book are to be inscribed on stone and brass columns, and these columns are to be set up in certain enumerated places, v. 18, 23, 47. The laws of Solon were written on rollers of wood, called *κύβητες*, of which some fragments were said to be preserved in the time of Plutarch.—*Solon*, c. 25. The laws of the twelve tables were inscribed on brass.

(177) vi. 1. Again he says, with reference to the early periods: ‘*Rare per ea tempora literæ erant*,’ vii. 3. Plutarch (*Num.* 1) quotes a statement from a chronological work of a writer named Clodius, that the ancient annals of Rome perished in the Gallic conflagration, and that those then extant had been fabricated by persons who wished to favour the great families of the state. This Clodius appears to be Clodius Licinus, who was anterior to Cicero, Krause, *ib.* p. 213. He alludes again to the uncertain chronology of the ante-Gallic period, *Camill.* 22.

(178) Dionysius says that there was no ancient historian of the Romans, but that each writer framed his narrative from ancient stories, preserved in sacred books, i. 73. ‘*Abest historia litteris nostris*,’ says Cicero, *Leg.* i. 2. He will not allow the name of historian to the jejune chroniclers who preceded him. Dionysius compares the early Roman historians, before

tor, and L. Cincius Alimentus, who lived at this period, composed histories reaching from the foundation of the city to their own time—full in the contemporary part, and succinct for the early period.⁽¹⁷⁹⁾ Now, even with respect to an event so recent as the Gallic invasion, a historian who began to collect oral accounts of it for the first time in 220 B.C., would be in the same situation as a historian who should undertake to perform the same process for the American war in the year 1945, or for the burning of Moscow in the year 1982.⁽¹⁸⁰⁾ With respect to the period before the Gallic invasion, his position would have been still more unfavourable. The oral traditions respecting such events as the expulsion of the kings, or the war with Porsena, must at this time have passed through so many successive reporters, as to retain scarcely any resemblance to historical fact. Thucydides was born only thirty-nine years after the expulsion of the Pisistratidæ, and the oral traditions respecting this family were still fresh: whereas, the interval between the lifetime of Fabius and the expulsion of the Tarquins was not less than two centuries and a half.

All the early Roman history, throughout the reigns of the

himself and Livy, with the Greek chronographers, i. 7. Strabo states that the Romans had, in his time, added little to the researches of the Greeks in geography, iii. 4, § 19.

Plutarch, *Fab.* 16, speaks of detailed histories of the second Punic war: —οἱ τὰς διεξοδικὰς γράψαντες ἱστορίας.

(179) *ὁν εἰσὶ πρεσβύτατοι Κόιντος Φάβιος, Λεύκιος Κίγκιος, ἀμφότεροι κατὰ τοὺς Φοινικοὺς ἀκρίσαντες πολέμους. Τούτων δὲ τῶν ἀνδρῶν ἑκάτερος, οἷς μὲν αὐτὸς ἔργους παρεγένετο, διὰ τὴν ἐμπειρίαν ἀκριβῶς ἀνέγραψε· τὰ δὲ ἀρχαῖα τὰ μετὰ τὴν κτίσιν τῆς πόλεως γινόμενα κεφαλαιωδῶς ἐπίδραμε.* Dion. Hal. i. 6. Again, in vii. 71, he describes Fabius as the earliest Roman historian, and as deriving his information both from hearsay accounts and from personal knowledge—see above, p. 259, n. 155. Both these historians wrote in Greek: the Latin language had not, at this time, been polished sufficiently for prose composition. Fabius composed his Roman history in Greek, for the same reason that Grotius composed his Dutch history in Latin.

Plutarch (*Rom.* 3) speaks, however, of Fabius Pictor having followed a Greek writer, named Diocles of Peparethus, with respect to the legend of Romulus and Remus.—See *Fragm. Hist. Gr.* vol. iii. p. 74.

(180) Livy calls Fabius Pictor 'scriptorum antiquissimus,' in reference to the reign of Servius, i. 44; and 'longe antiquissimus auctor,' in reference to the death of Coriolanus, ii. 40. Crevier properly remarks: 'Eorum qui historiam apud Romanos scribere, antiquissimus; qui tamen recens admodum auctor videbitur, si comparetur ad primordia urbis Romæ.'

kings, and even for some time after the establishment of the commonwealth, has the character of a narrative formed out of commemorative, or explanatory legends; similar to the *Cyropædia* of Xenophon, and the lives of Theseus and Lycurgus by Plutarch. To what extent the main events which constitute the framework of the narrative may represent actual fact, and where the line is to be drawn between truth and fiction, the extant accounts afford little means of judging; and accordingly, very different judgments have been formed by the modern historians of Rome.⁽¹⁸¹⁾

Niebuhr, pointing out that Etruria had a far older literature than Rome, and that the earliest Roman writers were contemporary with the later Etruscan, adverts to an account of Servius, related by the Emperor Claudius from Etruscan authorities, as preferable to the Roman version.⁽¹⁸²⁾ If we could be satisfied that this account was derived from Etruscan chroniclers, who wrote at or near the time of Servius, their testimony would un-

(181) The statements of the ancients concerning a contemporaneous official registration of public events, at Rome (see Cic. *de Orat.* ii. 12; Dion. Hal. i. 74) have been examined by Beaufort, *ib.* p. 48 seq.; Hooke, *Dissertation on the Credibility of the first 500 Years of Rome*, p. xxix.-xlvi. (in vol. iv. of his history); Wachsmuth, *Ältere Gesch. des Röm. Staats*, p. 1-12; Niebuhr, vol. i. p. 248; Ulrici, *Ant. Hist.* p. 87; Kranse, *ib.* p. 23; Leclerc, in the dissertation prefixed to his work, *Des Journaux chez les Romains* (Paris, 1838), and other modern critics.

It is certain, from the confusion and uncertainty which prevail even as to the names and dates of the annual magistrates, in the early period, either that the contemporaneous registration was imperfect, or that the registers were not preserved. Thus Livy says, with respect to the year 498 B.C., twenty years after the expulsion of the kings: 'Tanti errores implicat temporum, aliter apud alios ordinatis magistratibus, ut, nec qui consules secundum quosdam, nec quid quoque anno actum sit, in tantâ vetustate non rerum modo, sed etiam auctorum, digerere possis.'—ii. 21: see also iv. 7. The ancient practice of driving a nail into the wall of a temple by the principal magistrate (see Livy, vii. 3) indicates a great penury of writing materials, and is a very rude method of registering time, not so artificial as that used by the ancient Mexicans and Peruvians. A similar mode of registration was used by the Etruscans at Volsinii, in the temple of the goddess Nortia, and it was retained at a later period among the Italian peasants.—Livy, *ib.*; Müller's *Etrusker*, iv. 7, § 6. Beaufort (*ib.* p. 96) thinks that the chief source from which the early Roman historians drew their accounts of the first five centuries, was the memoirs of the great families.

(182) *Hist. of Rome*, vol. i. p. 327. The account is treated as historical by Müller, *Etrusker*, vol. i. p. 116-8.

doubtedly be preferable to that of the Roman histories: but of the credit due to the writings cited by Claudius we are unable to judge.⁽¹⁸³⁾

Certain ancient monuments of the early period of Rome—such as treaties, and laws—appear to have been preserved; but they were probably few in number; and not being accompanied by contemporaneous narrative, they did not furnish a history of successive events.⁽¹⁸⁴⁾ The legislation of Servius is treated by all modern writers as historical; nor can it be doubted that the division of classes, and the census, combined with the right of suffrage, and with the obligation of military service, of which he is called the author, existed in the later centuries of Rome, when the detailed account handed down to us might be prepared.⁽¹⁸⁵⁾ But there is no evidence to prove that this

(183) Goettling (*Geschichte der Römischen Staatsverfassung*, p. 232) treats the Etruscan story as fabulous.

(184) See Dionys. iii. 36; iv. 26, 58; vi. 95. Polybius (iii. 22, 26) describes the treaty between Rome and Carthage, made in the first year of the republic, which he translated from the original brass plate, preserved in the Temple of the Capitoline Jupiter; and he remarks that the oldest persons, both among the Romans and Carthaginians, and those who were most conversant with public affairs, knew nothing of its existence. The oblivion of this important treaty is quite consistent with the absence of contemporary history at the period in question; but it would have been remarkable if the oldest persons in the time of Polybius had known anything of it by oral tradition, inasmuch as three centuries and a half had elapsed since the treaty was made. A treaty with Porsena is quoted by Pliny, *H. N.*, xxxiv. 39; see Livy, i. 60; Sueton. *Vesp.* 8; Niebuhr, vol. i. p. 248; Wachsmuth, *ib.* p. 4-6.

(185) Concerning the retention of the Servian constitution for many generations, and its change in his own time, see Dionysius, iv. 21. His regulations respecting the census likewise lasted for a long time (*ib.* c. 15). If, therefore, these institutions were referred to Servius as their author, there was no difficulty in giving a minute description, in later times, from the existing practice. Dr. Arnold says:—'This constitution is no doubt historical, however uncertain may be the accounts, which relate to its reputed author.'—vol. i. p. 64.

The accounts of the constitution of Servius have been considered by Husehke sufficiently authentic to furnish materials for a volume of 754 pages, *Die Verfassung des Königs Servius Tullius*; Heidelberg, 1838. According to Müller, the names of the two Tarquins designate epochs, and mark the ascendancy of the Etruscan city of Tarquinii in Rome. Servius Tullius is a rival Etruscan leader of troops, who interrupts the ascendancy of Tarquinii.—*Etrusker*, vol. i. p. 119, 122, 203, 380-9.

The facts that Tarquinius Superbus was a tyrant, and that he was the last king of Rome, are certain. All the rest of his history is uncertain,

constitution proceeded in a finished form from the head of Servius.⁽¹⁸⁶⁾

In following the account of the expelled Tarquinian party, we come into contact with a circumstance respecting Aristodcmus, the despot of Cuma, which may perhaps have been recorded in some ancient Cuman chronicle.⁽¹⁸⁷⁾ But all the events of the early period of the commonwealth, though they doubtless concern real persons, and involve a nucleus of fact, have nevertheless a legendary character. Even the capture of Rome by the Gauls—an event which was known to Aristotle, Heraclides Ponticus, and Theopompus⁽¹⁸⁸⁾—and of which the chronology is fixed by sure evidence, is not described to us with the clearness and certainty which belong to contemporaneous history.⁽¹⁸⁹⁾ The

according to Niebuhr, vol. i. p. 410, who adds, that his death at Cuma is historical.—*Ib.* p. 559.

(186) Concerning the remains of laws attributed to the Roman kings, see Dirksen's *Versuche zur Kritik und Auslegung der Quellen des Römischen Rechts* (Leipzig, 1823), p. 234-358.

(187) See Dionys. vi. 21, vii. 2, 12; Livy, ii. 21, 34; Plut. *de Mul. Virt.* 24.

(188) See Pintarch, *Camill.* 22, and Plin. *H. N.* iii. 9. Dionysius says that nearly all authorities agree as to the date of this event.—i. 74.

The *dies Alliensis*, which was marked as *nefastus* in the Roman calendar, had doubtless been observed by an uninterrupted usage from the day of the unfortunate battle; 'Damnata diu Romanis Alia fastis,' says Lucan, vii. 409. See Livy, vi. 1; Gell. *N. A.* v. 17; Niebuhr, vol. ii. n. 1179.

(189) The extant accounts of the Gallic war are thus characterized by Dr. Arnold:—'It is impossible to rely on any of the details of the narrative which has been handed down to us; the Romans were no doubt defeated at the Alia; Rome was taken and burnt, and the Capitol ransomed; but, beyond this, we know, properly speaking, nothing. We know that falsehood has been busy, to an almost unprecedented extent, with the common story; exaggeration, carelessness, and honest ignorance, have joined more excusably in corrupting it. The history of great events can only be preserved by cotemporary historians, and such were, in this case, utterly wanting. But as we have an outline of undoubted truth in the story, and as the particulars which are given are exceedingly striking, and in many instances not improbable, I shall endeavour at once to present such a view of the events of the Gaulish war as may be clear from manifest error, and to preserve also some of its most remarkable details, which may be true, and are, at any rate, too famous to be omitted.'—*Hist. of Rome*, vol. i. p. 531-2. Lower down, in describing the repulse of the Gauls from the Capitol, he says:—'Historically true in the substance, these stories are yet, in their details, so romantic, that I insensibly, in relating them, fall into the tone of the poetical legends.'—*Ib.* p. 545. Gibbon says that, 'in the history of the taking of Rome by the Gauls, everything is uncertain, and perhaps fabulous.'—*Decline and Fall*, c. 31, note. Compare Beaufort, *ib.* c. 9.

invasion of Alexander of Epirus,⁽¹⁹⁰⁾ however, and still more that of Pyrrhus, place us at once in the midst of the full light of Greek contemporary history. Instead of the shadowy and theatrical forms which have hitherto moved on the stage, the Roman consuls here appear invested with the same reality as the successors of Alexander.⁽¹⁹¹⁾ A similar remark applies to the period of the first Punic war, as narrated by Polybius; his birth falls, indeed, nearly forty years after the termination of the war, but his account must have been derived from contemporary materials.⁽¹⁹²⁾

Whenever any event is related in histories written after the time, and not avowedly founded on contemporary testimony, the proper mode of testing its historical credibility is to inquire whether it can be traced up to a contemporary source. If this cannot be done, we should be able to raise a presumption that those who transmitted it to us in writing received it, directly or through a trustworthy tradition, from contemporary testimony. If neither of these conditions can be fulfilled, the event must be considered as incurably uncertain, and beyond the reach of our actual knowledge.

In examining the evidence for events which have come down to us by the reports of non-contemporary historians, our first object is to inquire how far the fact is likely to have been remembered by the persons from whom these historians derived their information. Thus, the expulsion of the Pisistratidæ from Athens,

(190) See Livy, viii. 3, 24.

(191) Pyrrhus wrote memoirs of his own life, which are cited by Dionysius, xix. 11, and Plutarch, see *Fragm. Hist. Gr.* vol. ii. p. 461. Pausanias (i. 11, § 7) remarks that he was the first Greek who fought with the Romans. Hieronymus, the historian of the successors of Alexander, a contemporary writer, also described his war with the Romans.—*Fragm. Hist. Gr. ib.* p. 450-60. Timæus likewise wrote at the same time a separate work on the wars of Pyrrhus, in which that against the Romans was included.—*ib.* vol. i. p. 231; and Dion. Hal. i. 6.

The speech of Appius the Blind, made on the occasion of the message of Pyrrhus to the Roman senate, was extant in the time of Cicero.—*Brut.* c. 14, 16; *De Sen.* c. 6. The embassy of Ptolemy Philadelphus to Rome, in the year after Pyrrhus had left Italy (273 B.C.), is another point of contact, at this period, between Greek and Roman history.

(192) See Arnold's *Hist. of Rome*, vol. ii. p. 562; and Clinton, ad ann. 129.

and the expulsion of the Tarquins from Rome, were two events nearly coëval; the former was in 510, the latter in 509 B.C. Now Greece had historians as early as that time; and if these writers did not relate contemporary events, historians immediately subsequent, who had still access to authentic oral traditions, preserved its memory with accuracy. Rome, however, had no chronicler whose date at all approaches that of the expulsion of the kings: the contemporary testimony is irreparably gone, or is undistinguishable as such; and therefore all accurate knowledge as to the details of that event is now unattainable. Thucydides informs us that Hippias, not Hipparchus, was the eldest son of Pisistratus, and succeeded him as despot, although the common belief of the Athenians reversed the two brothers.⁽¹⁹³⁾ There is a similar discrepancy in the accounts respecting the sons of Tarquin: some represent Sextus Tarquinius as the youngest; others as the eldest, of the three sons. Again, some describe Sextus, others Aruns, as the ravisher of Lucretia.⁽¹⁹⁴⁾ Now, with respect to the sons of Pisistratus, we may be assured that the version of Thucydides, on account of his propinquity to the events, and his habits of accurate and painstaking research, is to be preferred to the popular tradition: but with respect to the sons of Tarquin, we have no such guide. None of the accounts comes to us recommended by any decisive authority; we have no reason for preferring any one, and are even ignorant whether they may not *all* be false.

Newton, in his work on chronology, has laid it down, that

(193) vi. 54-5.

(194) According to Livy, i. 53, and Ovid, *Fast.* ii. 691, Sextus Tarquinius was the youngest of three sons. According to Dion. Hal. iv. 64, he was the eldest son. Cic. (*De Rep.* ii. 25) says that the eldest son of Tarquin was the ravisher of Lucretia, but without specifying the name. The common story makes Sextus the ravisher; but Florus (i. 10) and Servius (*ad Æn.* viii. 646) name Aruns. Compare Bayle *Dict.* 'Lucrèce,' note B. Tradition likewise varied with respect to the *day of the year* on which the Tarquins were expelled. Three several days in the Roman calendar were assigned for the *regifugium*, viz. the 24th of February, the 24th of March, and the 24th of May.—See Fischer, *Röm. Zeittafeln*, p. 470. Müller says that the account of the overthrow of the Tarquinian rule is nothing but a collection of fables.—*Etrusker*, vol. i. p. 387. See above, n. 185.

'before the use of letters, the names and actions of men could scarce be remembered above eighty or one hundred years after their deaths.'⁽¹⁹⁵⁾ It is indeed certain that, in a rude society, ignorant of the art of writing, no historical tradition would be propagated in a genuine form for more than this period. But for an age (such as the first three centuries of the Olympiads in Greece, and the first five centuries after the building of the city at Rome) when, though there is no contemporary history, yet some leading facts are preserved in writing, oral tradition, having a certain fixed point to rest upon, may be of longer duration. It is, besides, impossible to establish any precise time for the preservation of oral accounts; for some historical events are more likely than others to be handed down by a faithful tradition, and to live in the popular memory. Facts known to a whole community, and possessing a national interest, particularly if they have continued to exist through a long series of years, are likely to be remembered. Thus, a long period of royal government, like that of Rome,⁽¹⁹⁶⁾ as well as of Athens,⁽¹⁹⁷⁾ and other Greek states, would infallibly leave deep traces in the popular recollection. Institutions subsisting in the historical period, such as the King Archon at Athens, and the Interrex at Rome, for the creation of consuls, would likewise serve as reminiscences of the ancient royalty. Again, a conquered community would long remember with pain the fact of its subjugation, and cherish the recollections of its lost independence. The Messenians seem never to have for-

(195) Sir Isaac Newton, *The Chronology of Ancient Kingdoms amended* (1728, 4to); introd. p. 7. See above, p. 218, n. 74.

(196) A gilt wooden statue of Servius Tullius was preserved in the Temple of Fortune at Rome in the time of Dionysius, and was treated with great reverence. It was said to have been miraculously saved in a conflagration of the temple.—Dionys. iv. 40; Ovid, *Fast.* vi. 611-28. There were ancient statues of Brutus and the kings on the Capitol.—Plutarch, *Brut.* i.; Dio Cass. xliii. 45. Nothing, however, is known as to the time when these statues were erected. A statue of Tanaquil, or Caia Cæcilia, was also shown in the Temple of Sancus.—Plin. *H. N.* viii. 74; Plut. *Quæst. Rom.* 30.

(197) Mr. Grote, while he confines authentic names and events to the period of the annual archons, admits, as historical, the general fact of the existence of a primitive line of hereditary kings at Athens, vol. iii. p. 67. Compare vol. i. c. 11.

gotten that they had once been their own masters; they kept up for nearly three centuries the memory of their early wars with Sparta; and their national hero, Aristomenes, was believed to have fought at Leuctra, where he smote down the Lacedæmonians, as St. James smote down the Moors at the battle of Clavijo.⁽¹⁹⁸⁾ In the ancient republics, moreover, the colonial relation between a parent state and its colony could not pass into oblivion, inasmuch as it was kept up by periodical missions of sacred envoys, and communication of religious rites, as well as by similarity of language, laws, customs, dress, and names.⁽¹⁹⁹⁾ As the colony looked to its mother country for assistance in difficulties, and a sort of filial feeling towards it was maintained,

(198) Pausanias (iv. 26, § 4) says that the scattered Messenians came together sooner than might have been expected, on account of their regret for their native country, and the hatred of the Lacedæmonians which they had always retained. As to Aristomenes fighting at Leuctra, see *ib.* 32, § 4. The shield of Aristomenes was preserved at Lebadea, in Boeotia, and was seen by Pausanias, *ib.* 16, § 4; 32, § 5. A traditional couplet respecting a victory of Aristomenes over the Lacedæmonians was still sung in the time of Pausanias.—*ib.* 16, § 4.

The custom, preserved to the time of Livy, and even to that of Plutarch, of selling the 'goods of Porsena,' in all sales of public property, seems to be a reminiscence of some humiliation inflicted on Rome by Porsena. See Livy, ii. 14; Dionys. v. 34; Plutarch, *Public.* 19.

Gibbon (c. 35, note) remarks that the scepticism of the Count de Bunt with respect to the capture of Metz by the Huns, in 451 A.D., cannot be reconciled with any principles of reason or criticism: 'Is not Gregory of Tours (he says) precise and positive in his account of the destruction of Metz? At the distance of no more than a hundred years, could he be ignorant, *could the people be ignorant*, of the fate of a city, the actual residence of his sovereigns, the kings of Austrasia?' Walter Scott alludes to the enduring memory of a national defeat:—

'Tradition, legend, tune, and song,
Shall many an age that wail prolong;
Still from the sire the son shall hear
Of the stern strife and carnage drear,
Of Flodden's fatal field:
Where shivered was fair Scotland's spear,
And broken was her shield.' *Marmion*, canto vi.

(199) See Wachsmuth, *Hell. Alt.* i. 1, p. 102; K. F. Hermann, *Pol. Ant.* § 74; Schoemann, *Jus Publ. Gr.* p. 420. Such usages as those mentioned in Thuc. i. 25, for the colonies of Corinth (viz. of showing certain marks of honour to the mother country in common festivals, and beginning with a Corinthian man in public sacrifices), were likely to perpetuate the memory of the relation: compare Diod. xii. 30. Carthage sent annually similar missions to Tyre, and even paid a tithe to the mother temple of Hercules, Diod. xx. 14; Arrian, ii. 24; Curt. iv. 2; Polyb. xxxi. 20,

there was likewise an inducement of interest not to allow the relation to be forgotten.⁽²⁰⁰⁾

Lastly, the memory of great lawgivers was likely to be long preserved, because their laws remained in force, and were perpetuated on metal or stone, or by some other enduring record. In this way, the fame of Lycurgus remained; the memory of the ancient Zaleucus was kept up among the Epizephyrian Locrians;⁽²⁰¹⁾ the legislation of Draco and Solon was remembered at Athens;⁽²⁰²⁾ while the twelve tables of Rome were learnt by heart as a necessary lesson, and the decemviral legislation was considered by the Romans as the source of all their

§ 12. As to similarity of dress, see Thuc. i. 6. As to language, see the saying of the Syracusan woman in Theocritus, when reproached with her broad dialect:

ὥς δ' εἶδης καὶ τοῦτο, Κορίνθιαι εἰμὲς ἄνωθεν,
ὥς καὶ ὁ Βέλλεροφῶν Πελοποννησιαστὶ λαλεῖμεν,
Δωρίσθεν δ' ἔξεστι, δοκῶ, τοῖς Δωριέεσσι.—*Id.* xv. 91-4.

Bellerophon was a Corinthian hero.—See *Iliad*, vi. 155; Paus. ii. 2, § 4.

Thucydides states that Himera, in Sicily, was founded by Chaldeans from Zancle, with some Syracusan exiles: 'Hence (he says) their dialect was mixed of Chaldean and Doric, but the Chaldean institutions prevailed,' vi. 5. Müller remarks that the Byzantians, a colony of Megara, 'though far removed from their mother state, so carefully preserved the memory of it, that they carried over almost all the names of their native country and the neighbouring region.'—*Dorians* i. 6, § 9.

(200) Thuc. i. 24; Pintarch, *Timoleon*, c. 2, 3. As an instance of colonial recollections, compare the verses of Mimnermus on the colonization of Colophon and Smyrna. He flourished as early as 630 B.C.

ἡμεῖς δ' αἰπὸν Πύλον Νηλῆιον ἄστυ λιπόντες
ἡμερτὴν Ἀσίην νηυσὶν ἀφικόμεθα
εἰς δ' ἐρατὴν Κολοφῶνα βίην ὑπέροπλον ἔχοντες
ἔζομεθ' ἀργαλὲς ὕβριος ἡγμῶνες
κείθεν δ' Ἀστήνιος ἀπορρύνετο ποταμοῖο
θεῶν βουλῇ Σμύρνην εἴλομεν Διολίδα.

Fragm. 9, Schneidewin.

(201) See Aristot. *Pol.* ii. 12. Zaleucus, who is said to have made the earliest code of written laws in Greece, is referred to the year 660 B.C.—See Clinton, ad ann.; Heyne, *Opusc. Acad.* vol. ii. p. 62. According to this date, his legislation was 66 years before that of Solon.

(202) Demosthenes speaks of Solon and Draco being praised by the Athenians, because they established excellent laws, tending to the common good, *Adv. Timocrat.* p. 765. Cratinus, the comic poet, mentioned Solon and Draco together.—Plut. *Sol.* 25.

public and private law, although it preceded their contemporary history by more than two centuries.⁽²⁰³⁾

If an European were now to visit some Oriental community, which is destitute of a history, and were to set about collecting information as to its bygone state, such facts as those which have been last enumerated would be most easily obtained from oral tradition, in an authentic and trustworthy form. Traditions so procured would be strongly confirmed, if any religious or political usages, such as those of the Greeks just referred to, if resemblances of proper names, language, and institutions, were consistent with the oral testimonies. It may be observed, that the lives of two men, 80 years of age, succeeding one another at a proper interval, will carry on the memory of contemporary events for 130 years; and that three long lives will cover a period of two centuries: in other words, a fact 200 years old may be known by a chain of evidence consisting only of three links. A person now living may have known a person who knew a person who stood on the scaffold when Charles I. was beheaded.⁽²⁰⁴⁾

The fundamental facts of a mythico-historial period are, by the supposition, certain and true not less than those of a historical period. If they were not, the entire story would be fabu-

(203) The laws of the twelve tables were inscribed on brass.—Dionys. x. 57; Livy, iii. 57. They were 'fons omnis publici privatiq[ue] juris.'—Livy, *ib.* c. 34. Lord Campbell speaks of the account of Prince Henry's commitment by Sir William Gascoigne, as having been preserved orally more than a century 'by the sure traditions of Westminster Hall.'—*Lives of the Chief Justices*, c. 3, vol. i. p. 128. Although this story is doubtless substantially true (see Luders' *Essay on Henry V.* p. 75), I may observe that Lord Campbell is more tolerant of hearsay evidence in his historical than he would be in his judicial character.

(204) Muratori, in his *Trattato del Governo della Peste*, says: 'Ho trovato gente savia in Milano, che aveva buone relazioni dai loro maggiori, e non era molto persuasa che fosse vero il fatto di quegli unti velenosi, i quali si dissero sparsi per quella città e fecero tanto strepito nella peste del 1630.'—Quoted by Manzoni, in the *Colonna Infame*, c. 7. Muratori was born in 1672; his work on the plague was published in 1720, just 90 years after the plague of Milan. In this case, the subsequent account was better than the contemporary account; but the superiority was doubtless chiefly due to the improved knowledge of the laws of nature which the century in question had produced.

lous. Mythico-historical narration, like public rumour, is characterized by the confused mixture of truth and falsehood.

Pariter facta atque infecta canebat—
Tam ficti pravique tenax, quam nuntia veri.

Sometimes, indeed, as in the case of the capture of Rome by the Gauls, the main fact may be delivered to us on the authority of contemporaries, while the accessories and details may be a legendary story, reduced into writing long after the event. More often, however, even the main fact is reported to us without any explanation of the means by which the memory of it had been preserved; and hence, even in cases where this explanation, if furnished, might have been satisfactory, we are left in uncertainty as to its credibility.

If, for example, we knew the basis of the chronological computation by which Herodotus fixed the date of the Trojan war about eight hundred years, and that of Hesiod and Homer above four hundred years before his own time,⁽²⁰⁵⁾ we might form a judgment of its soundness: but the historian merely records his conclusion, without informing us of the grounds on which it rested. Again, if we knew what was the nature of the oral reports, which induced the Lacedæmonians, as the same historian relates,⁽²⁰⁶⁾ to give a different account of Aristodemus and his twin sons from that given by any poet, we might estimate their historical worth, which is now impossible. In like manner, if we were informed as to the nature of the hearsay traditions which enabled Thucydides to say that Minos was the earliest Greek who possessed a navy;⁽²⁰⁷⁾ or of those handed down in Peloponnesus concerning Pelops;⁽²⁰⁸⁾ if we could ascertain his grounds for placing the settlement of the Bœotians sixty years, and the Doric invasion of Peloponnesus eighty years after the Trojan war; how he fixed the colonization of Melos seven hundred years, the

(205) ii. 53, 145.

(206) vi. 52-3.

(207) Μίνως γὰρ παλαιάτος ὢν ἀκοῇ ἴσμεν ναυτικὸν ἐκτίσασα.—i. 4.

(208) λέγουσι δὲ καὶ οἱ τὰ σαφέστατα Πελοποννησίων μῆμνη παρὰ τῶν πρότερον δεδογμένοι, &c.—i. 9.

legislative reform of Sparta four hundred years, the first building of triremes in Greece three hundred years, and the first Greek sea-fight two hundred and sixty years,⁽²⁰⁹⁾ before the end of the Peloponnesian war; why he believed that the Sicels migrated from Italy to Sicily about three hundred years before the Greeks entered the island;⁽²¹⁰⁾ that is to say, three hundred years before 736 B.C.; how he counted so far back from his own time, and what was the supposed evidence, ascending to those early dates, on which he relied, we should be able to judge of the sufficiency of his proofs. But we have only his results, without being able to analyse the process by which they were obtained. We cannot ascertain whether the facts on which they rested were more authentic than those by which Virgil was able to fix the duration of the Trojan and Alban empire of the progenitors of the Romans at three hundred and thirty-three years.⁽²¹¹⁾

In like manner, if we were informed as to the materials from which the extant narratives respecting the legislation and death of Servius, the expulsion of the Tarquins, the war with Porsena, the institution of a dictator and tribunes, the adventures of Coriolanus, the battle of the Crœmera, and the taking of Rome by the Gauls, were framed, we might judge of their historical value: as it is, we only know that they were drawn up long after the supposed events occurred, from authorities of which we are ignorant.⁽²¹²⁾ Niebuhr says, that 'if we had the *Origines* of Cato, and the history of Q. Fabius Pictor, we might

(209) i. 12, 13, 18. The statement as to the foundation of Melos is placed in the mouth of the Melians.—v. 112.

(210) vi. 2. The foundation of Naxos, which Thuc. (vi. 3) describes as the first Greek settlement in Sicily, is fixed by the ancient chronologists at 736 B.C.

(211) *Æn.* i. 262-73.

(212) After enumerating the sources of early Roman history—viz. annals, records of magistrates, treaties, family memoirs, &c., Hooke says: 'Of no one sort of these pieces was there an uninterrupted series, but only parts and fragments. The whole stock of materials was insufficient for a continued thread of history; and accordingly the history is broken and imperfect; there are many chasms in it; some things are delivered as uncertain, some as fabulous: and many things in it are fabulous or uncertain which are not delivered as such.'—*Diss.* p. xlvii.

dispense with all speculations concerning the early history of the nations of Italy.⁽²¹³⁾ But it is to be remembered, that those writers could only have known this early history from oral traditions handed down through many centuries; and that the true accounts of the period in question had, to a great extent, perished before their time. Even if their works were extant, the ethnological researches respecting the Pelasgians, the Tyrrhenians, the Etruscans, and the Sicels, would probably be in the same indeterminate state as at present.⁽²¹⁴⁾

Historical investigation is fruitless, unless some means exist of tracing the alleged facts to contemporary witnesses, and of estimating their credibility. Industry and ingenuity are wasted in the attempt to frame a historical narrative, or a historical theory, where well-attested matter of fact is wanting.⁽²¹⁵⁾ If we were able, in early Roman history, to compare the popular legend with an authentic contemporary account, we might judge how much of the received narrative is true; but such a comparison is, with our means, impossible. Thus, the account of the heroic act of Horatius Cocles, given by Polybius, is less romantic than the common version of the story; but we do not know whether Polybius derived his narration from an authentic source, or merely pruned off the improbabilities of the popular legend.⁽²¹⁶⁾ Again, the story of Sextus Tarquinius and Lucretia may, with Manzoni, be treated as fabulous, and placed on the same footing as that of Paris and Helen, if we look merely to its romantic

(213) *Lectures*, vol. i. p. 37, ed. Schmitz. In his *History of Rome*, vol. i. p. 176, he says that accounts of primitive national movements, substantially true, though false in details, may still be recovered.

(214) Livy, who had access to these works, says:—'Quæ ante conditam condendamve urbem, poeticis magis decora fabulis, quam incorruptis rerum gestarum monumentis, traduntur, ea nec affirmare nec refellere in animo est.'—Pref.

(215) Livy, after relating the different reports as to the origin of the Curtian lake, proceeds thus:—'Cura non deesset, si quæ ad verum via inquirentem ferret; nunc famâ rerum standum est, ubi certam derogat vetustas fidem.'—vi. 6.

(216) vi. 55. Livy says of Cocles;—'Rem ausus plus famæ habituram ad posteros quam fidel.'—ii. 10. Virgil seems to assume that Cocles himself cut the bridge.—Æn. viii. 650.

character, and consider it as insufficiently authenticated by external evidence.⁽²¹⁷⁾ On the other hand, if it were vouched by adequate testimony, traceable to contemporary sources, it would be as credible as the story of Hipparchus and Harmodius, which shook the Pisistratic rule, and as other similar stories in the *Politics* of Aristotle, who enumerates insults of this sort among the leading causes of the overthrow of Greek despotisms;⁽²¹⁸⁾ or as the outrage offered by Appius Claudius to Virginia, which is described as the cause of the downfall of the decemvirs.⁽²¹⁹⁾

(217) Manzoni, in his essay (*Del Romanzo Storico*, part ii.), compares Helen in the Greek epic with Lucretia in the Latin, as being both women who were the causes of important events.

(218) v. 10.

(219) Livy compares the story of Virginia with that of Lucretia:—‘Sequitur aliud in urbe nefas, ab libidine ortum, haud minus fædo eventu, quam quod per stuprum cædemque Lucretiæ urbe regnoque Tarquinios expulerat: ut non finis solum idem decemviris, qui regibus, sed causa etiam eadem amittendi imperii esset.’—iii. 44. Virginius refers to the case of Lucretia in Dion. Hal. xi. 41.

Rubino (*Untersuchungen über Römische Verfassung und Geschichte*; Cassel, 1839; vol. i. pref. p. vi.) lays it down that the accounts of the Roman writers respecting their ancient history fall into two distinct classes. One consists of traditions respecting the constitution, and the religious and legal institutions connected with it; the other, more properly of a historical nature, contains narratives of wars, and relations with neighbouring states, the adventures of renowned persons, and other interesting details. These two classes of accounts stand, he thinks, on a wholly different footing with respect to their credibility. The former were in part reduced into writing at an early date; and, at the time when they were perpetuated by a merely oral tradition, were connected with permanent institutions, were kept alive by the proceedings of the senate, the courts of justice, and the popular assembly, and were carefully passed on from one generation of statesmen and priests to another. Whereas the latter class were for a long time left to the exclusive custody of popular tradition, and were naturally exposed to the embellishments of fancy, and to the distortions of national and family pride. How far this distinction admits of being worked out, so as to satisfy an impartial inquirer that the early constitutional history of Rome rests upon the basis of contemporary testimony, this is not the place to inquire. Rubino himself admits that Niebuhr's attempt to act on the distinction in question has not been successful. Niebuhr, he says, holds that our best authorities totally misconceived the nature of the early Roman constitution: whereas, Rubino thinks that there was only *one* view of the early constitutional history received among competent judges in Rome, and that this view is substantially correct, though many of the details handed down to us are inaccurate. He remarks that Niebuhr's method of interpreting the accounts of the early Roman constitution amounts to a sort of secret doctrine, of which he has the monopoly, that no such method has ever been applied to any other department of antiquity, and that it renders all certainty, and all hope of agreement, unattainable.—*Id.* p. 9-18. It may be doubted, however, whether the method implied in Rubino's

The controversy respecting the historical character of the Homeric poems resolves itself into the question, whether, like the *Perseæ* of Æschylus, or the epic of Tasso, they are founded on fact, or are the results of a purely creative invention. But even if they contain some fragments of fact, we have no independent accounts which enable us to separate these from the mass of fiction with which they are incrustated. In the romances relating to Charlemagne, we are enabled to identify Charles himself, as well as Orlando, Ruggieri, and some other knights, with real persons, because the events of that period have been preserved in authentic records.⁽²²⁰⁾ By comparing the poems of Bojardo and Ariosto with the true history of the times of Charlemagne, we can determine how much is reality, and how much is fiction. We can satisfy ourselves, for example, that although Charlemagne was a real prince, and Roger was king of Sicily, yet the description, at the beginning of Bojardo, of his high court held at Paris, of the arrival of Angelica, and of the combats on her account, is a pure fable. A similar test would be applicable

supposition is not equally reserved for special application to Roman history. For what other country is an attempt made to write an authentic constitutional history, while all the contemporary *events* are admitted to be uncertain and legendary? Is it possible to conceive a constitutional history treated *in vacuo*, and abstracted from men and their political acts? No such separation is attempted in Greek history; our knowledge of the constitution of a state begins at the same time as our knowledge of the events of its history.

(220) For an investigation of the historical contents of the romances of chivalry, see Panizzi, *Essay on the Romantic Narrative Poetry of the Italians* (prefixed to his edition of Bojardo and Ariosto, Lond. 1830), p. 86, *sqq.* He has shown how the historical names of the romances were borrowed from history: 'In two or three centuries, the ballads in which the name of Charles was mentioned must have been considered as all relating to one individual; so that of Charles Martel, Charles the Great, Charles the Bald, Charles the Fat, and Charles the Simple, one single Charles being made, he was naturally supposed to be the most famous of the name, i. e. Charlemagne. The same very probably occurred with respect to Rinaldo, the name being very common during that period. . . . Even without this similarity of name, one individual was often compounded of two or more, where they happened to resemble each other in any particular circumstance of their lives. The process consisted simply in joining into one, several short ballads relating to different persons (*ib.* p. 113-4). On the blending of truth and fiction in romances, *ib.* p. 138-40. As to the derivation of Ruggieri from Roger, king of Sicily, and other princes of that name, see *Life of Bojardo*, vol. ii. p. lxxx. xcviii.

to the romances concerning King Arthur, if, indeed, it were not uncertain whether there is any contemporary record of this prince, and whether the oral legends in which he was celebrated were founded on a genuine tradition.⁽²²¹⁾ It is possible that Agamemnon, Menelaus, Achilles, and other heroes of the *Iliad*, were the names of real princes, floating in popular legends, which were caught up by Homer as characters in his epic poems; but if the acts which he assigned to them bore the same relation to the reality, as the adventures of the knights in the mediæval romances bore to ascertained history,⁽²²²⁾ the amount of fact preserved in the Homeric poems is very minute.

Great ingenuity, learning, and research have, of late years, been bestowed upon the mythico-historical period of ancient history; but no efforts of the modern historian can supply the defect of contemporary testimony, or enable him to chuse with safety between different versions of a fact, when the character of the witnesses is unknown. He may be guided by the laws of probability in rejecting marvellous details; he has, however, no criterion for discriminating between relations, probable in themselves, but destitute of clear external attestation. Still less is he able to detect probable fiction, when all the accounts agree in the same version.

The very unsatisfactory results which have hitherto attended

(221) Sir J. Mackintosh, in his *History of England* (vol. i. p. 27), considers it 'altogether unreasonable' to doubt of the existence of King Arthur. But the evidence of Nennius, on which Gibbon relied (*Decl. and Fall*, c. 38), has crumbled away since his time. See Stevenson's preface to his edition, 1838; and the preface to the *Monumenta Hist. Brit.* p. 62, 1848; and, although his name was certainly celebrated before the publication of Geoffrey of Monmouth's history, yet there is no contemporary account of him, unless the Welsh poems and documents are admitted to be as early as the 6th and 7th centuries. According to Ellis (*Specimens of early Engl. Metr. Romances*, vol. i. p. 103), Arthur is recorded in the *Triads*, and by Welsh bards, 'as a brave, and generally successful, warrior, but without any excessive or exaggerated praises.' Compare Sharon Turner's 'Vindication of the Ancient British Poets,' p. 599, 618, in the third vol. of his *History of the Anglo-Saxons*.

(222) F. v. Raumer remarks that, in the narratives respecting Charlemagne and the round table, there are very few historical facts or allusions; and that they describe rather the views and manners of the time of their authors than of past periods.—*Geschichte der Hohenstaufen*, vol. vi. p. 625; ed. 2.

the attempts to extract truth out of legendary materials, justify a confident anticipation that the progress of historical investigation will not only confirm the nullity of the period usually called mythical, but that it will more and more disclose the uncertainty of the mythico-historical ages, and exhibit the difficulty of giving a well-grounded preference to any one of the various hypotheses and conjectures of modern speculative historians concerning this period. It is natural that persons who have consumed much time, and exercised much ingenuity, in comparing the scattered and discordant accounts relating to this portion of antiquity, should flatter themselves with a belief that they have established some valuable facts; and it is equally natural that specious conjectures, supported with extensive learning, and fortified by numerous apparent analogies, should impose upon an ordinary reader. But a steady attention to the distinction between contemporary and traditionary evidence will, in general, dissipate the mist which erudition can throw round doubtful questions of fact.

It must at the same time be borne in mind, that different portions of a mythico-historical period may be very unequally illuminated. The earlier parts of it may approximate to the darkness of the mythical age, while the later years may be distinguished from a period of contemporary history by the meagreness, rather than by the uncertainty of the events. Pre-contemporary history is a compound of fact and fiction; but the constituent parts may be mixed in varying proportions. Sometimes fact, and sometimes fiction, may predominate. Its progress may resemble the transition from night to day; it may pass gradually from a faint glimmer to nearly perfect light. Thus, we need not doubt that the Samnite wars described at the end of the first decade of Livy, are more purely historical than the account of the expulsion of the Tarquins and the battle of Regillus, or the treachery of Coriolanus; or that the account of Solon's legislation is less alloyed with fiction than that of the legislation of Lycurgus; though all these events are anterior to contemporary history.

The characteristic of a mythico-historical narrative is, that truth and falsehood are intimately blended together, without there being any certain test for their discrimination. We may be satisfied that the main facts rest on contemporary registration; that oral tradition has embellished fact, and has not fabricated an original story; but we are unable to separate the dross from the pure ore. Now, it may happen, with respect to an event prior to contemporary history, that only one version of it may be preserved; and that, though the narrative may be mythico-historical, yet there may be no discrepancy as to its details. Frequently, however, there are different versions of events belonging to this period; and when this is the case, the legendary character of *material inconsistency* in the several accounts is very apparent. When different witnesses describe the same fact, but err in their accounts, from infirmity of memory, or bias of feeling, their errors are confined within certain limits, and vibrate, as it were, round a common centre. But when the several accounts are drawn from the imagination, they follow independent lines, and have no common point of reference except the names of the actors.⁽²²³⁾

Thus, on comparing different histories of England for the events of the 17th century, we find different colours put upon the same transaction, and praise or blame differently distributed, according to the political or religious opinions of the historian. We find certain incidents passed lightly over in one, which are brought into prominent relief in another; we find numerous discrepancies in the details; but the groundwork of the narrative is at once recognised as identical in all its material parts. We do not find the execution of Strafford placed by some writers in the reign of Charles II., or the execution of Sidney placed by others in the reign of Charles I. We do not find discussions whether Hampden was a Royalist or a Parliamentarian; whether Charles I. really died on the scaffold, or whether his public execution is not a romantic story, invented to excite pity; whether

(223) 'The existence of one legendary account must never be understood as excluding the probability of other accounts, current at the same time, but inconsistent with it.'—Grote, *Hist. of Gr.* vol ii. p. 9.

Cromwell was contemporary with Louis XI. or Louis XIV.; or whether Oliver and Richard Cromwell were the same man, or different men.

But, in a mythico-historical time, we are met, not only with innumerable variations in the subordinate parts of the narrative, but with wide discrepancies as to important facts. Thus Herodotus, Xenophon, Plato, Aristotle, Ephorus, and, indeed, the general voice of antiquity, attribute the characteristic features of the Lacedæmonian constitution to the legislation of Lycurgus.⁽²²⁴⁾ Hellanicus, however, who was born before Thucydides, and whose early date ought to have given him facilities for obtaining information, made no mention of Lycurgus, but attributed the entire constitution to Eurysthenes and Procles, the first kings.⁽²²⁵⁾ Plutarch commences his life of Lycurgus with the following sentence:—‘It is impossible to say anything concerning Lycurgus the lawgiver which is not disputed. His family, his travels, his death, and, in addition to all, even his proceedings respecting the laws and constitution of Sparta, are differently related; least of all is there any agreement as to the time when he lived.’ There were two versions of the quarrel between Sparta and Messenia, which preceded the Messenian wars.⁽²²⁶⁾ Aristomenes was, without dispute, the hero of the defeated party in these conflicts; but some accounts placed him in the first war, some in the second war: there is no valid ground for giving a preference to either account; and it has even been conjectured that there were two

(224) See Herod. i. 65-6; Xen. *Rep. Lac.* i. 2; Ephorus, *Fragm.* 19, 64, ed. Didot. Plato classes Lycurgus with Charondas and Solon, *Rep.* x. 3, p. 599. Aristotle places Lycurgus and Solon together, as being the authors both of laws and a constitution, *Pol.* ii. 12. He also thought that Lycurgus was not honoured in Lacedæmon in proportion to his merit—Plutarch, *Lyc.* 32.

(225) Strab. viii. 5, § 5; *Fr.* 91, ed. Didot. ‘Some writers (says Heraclides Ponticus) attribute the entire constitution of the Lacedæmonians to Lycurgus’ (*Polit.* 2), evidently implying, that other writers did not. Compare Müller, *Dor.* b. iii. c. 1, § 7. If, however, Plutarch is to be believed, Aristides, who came into public life soon after the time when Hellanicus was born, was an admirer and imitator of Lycurgus.—*Aristid.* 2.

(226) See Paus. iv. 4, and Manso, i. 1, p. 205. Pausanias, in recounting the discrepancies respecting another legendary event, remarks generally—*ἥκει γὰρ δὴ ἐς ἀμφισβήτησιν τῶν ἐν Ἑλλάδι τὰ πλείω.*—iv. 2, § 2.

warriors of the same name, an expedient which has been resorted to with respect to other legendary personages.⁽²²⁷⁾ Similar discrepancies exist with respect to the origin of the ephors; some writers attribute it to Lycurgus, some to Theopompus, and some to Chilon. Müller rejects all these origins, and supposes that they were an ancient Doric magistracy, not peculiar to Sparta. Again: the prevalent account is, that the ephors were instituted as a check on the power of the kings; while there is another account that they were originally the deputies of the kings, and that their power was acquired by gradual encroachment.⁽²²⁸⁾

The wide differences between the accounts of early Roman history given by Livy, Dionysius, Plutarch, and other classical writers, with respect to events admitted to have a historical nucleus, are known to every student of antiquity, and have been sufficiently elucidated by the modern critical inquirers.⁽²²⁹⁾

(227) See Grote, *ib.* p. 557-8. So Timæus supposed two Lycurguses, Plut. *Lyc.* 1. Perhaps the most absurd duplication is that which supposes two Romes, each founded by a Romulus and Remus.—Dion. Hal. i. 73. It has, in like manner, been supposed that there were two King Arthurs (Ellis, *Specimens of early Eng. Met. Romances*, vol. i. p. 101), and two Merlins (Panizzi, note to Bojardo, vol. ii. p. 176). Mr. Grote says: 'unless the duplication of homonymous persons can be shown to be probable by some collateral evidence, I consider it only as tantamount to a confession that the difficulty is insoluble.'—p. 558. Newton likewise condemns this arbitrary contrivance: 'for reconciling such repugnancies, chronologers have sometimes doubled the persons of men . . . and by such corruptions they have exceedingly perplexed ancient history.'—*Chron. of Anc. Kingd.* introd. p. 4.

(228) See Manso, i. 1, p. 242-53; Müller, *Dor.* iii. 7, § 1; Grote, vol. ii. p. 466. There was a δῆξις λόγος concerning the murder of his sister by Cambyses, as well as concerning the death of Smerdis, according to Herod. iii. 30, 32. Nothing can dissipate the uncertainty of these duplicate Oriental accounts.

(229) Thus, Livy enumerates the various accounts given in his authorities of the insurrection of the army at Capua, in 342 a.c., and concludes thus: 'Adeo nihil, præterquam seditionem fuisse, eamque compositam, inter antiquos rerum auctores constat'—vii. 42: and compare a similar discrepancy in viii. 30. These annalists, as Dr. Arnold remarks, were not contemporary writers.—*Hist. of Rome*, vol. ii. p. 117.

Plutarch says that the adventure of Mucius is narrated by many writers, and variously.—*Public.* c. 17. Several versions respecting the fate of Coriolanus, after the supposed mission of the women, are mentioned by Livy, ii. 40. As to the variations in the accounts of the reign of Romulus, in Dionysius, Livy, and Plutarch, see Hooke's *Rom. Hist.* b. 1, c. 2, *ad fin.* There were two inconsistent accounts of

With respect to the chronology of mythico-historical events, the discrepancies are sometimes still wider, and offer a remarkable contrast to the chronological questions respecting events of a purely historical period: while the latter are limited to a year, a few months, or a few days, the former sometimes extend to centuries. Thus, the era of Lycurgus fluctuates between 926 and 817 B.C., and the interval between the subjugation and restoration of Messenia varies from 300 to 500 years; the date of Phidon of Argos also oscillates between 748 and 895 B.C., nearly 150 years. The passage of the Sicelians from Italy to Sicily (which Niebuhr considers the earliest event of any authority in the history of Italy)⁽²⁰⁾ was placed by Hellanicus and Philistus in the third generation, or 80 years before the Trojan war; which, if we take the year of Eratosthenes, would give about 1264 B.C. Thucydides, however, fixes it above 200 years later. Ennius, again, departs widely from the general belief of his countrymen respecting the date of the foundation of Rome, for he places it 120 years before the common era.⁽²¹⁾ Velleius says that Capua and Nola were built by the Tuscans

the battle of the Cremera, Dion. Hal. ix. 18, 21: also, of the execution of Cassius, *ib.* viii. 79; Livy, ii. 41. Anachronisms are pointed out in the connexion of Numa with Pythagoras (Dion. Hal. ii. 59; Cic. *de Rep.* ii.): in the age of the sons of Tarquinius Priseus, Dion. Hal. iv. 6, 7: in the age of Tarquinius Superbus, *ib.* vi. 11: and in the name of the Sicilian despot, who sent corn to Rome, *ib.* vii. 1. For a curious list of different stories respecting the foundation of Rome, see Dion. Hal. i. 72-5; Plut. *Rom.* 1, 2.

Beaufort has the following remarks on the uncertainty of the early period of the commonwealth: 'Si l'histoire des rois de Rome a paru pleine d'incertitude par la manière différente dont les anciens auteurs en rapportent les événemens les plus importans, les temps suivans sont encore embarrassés de plus grandes difficultés. Il y régné une extrême confusion, soit pour le temps auquel les événemens mêmes, sur lesquels les auteurs sont rarement d'accord entre eux. Il n'y a pas moins de confusion dans les noms des consuls, qui se trouvent différens dans presque tous les auteurs. En confrontant Denys d'Halicarnasse avec Tite Live, on y reconnoit à peine la même histoire, excepté ce qui se passa d'abord, après qu'on eût secoué le joug des Tarquins, le siège de Rome par Porsenna, et la venue d'Appius Claudius à Rome, ou ne les trouve presque d'accord sur rien. Encore ces événemens varient-ils beaucoup dans quelques circonstances chez ces auteurs.'—*Dissert.* p. 229.

(20) *Hist. of Rome*, vol. i. p. 47.

(21) *Ib.* p. 269.

48 years before Rome ; whereas Cato placed the foundation of Capua 283 v.c.⁽²³²⁾

Even if witnesses agree in the substance of a narrative, variation in the details invalidates their testimony, according to the extent of the discrepancies. So imperfect, indeed, are our powers of observation, and so fallible our memory, that entire agreement of different witnesses in all the details of a narration rarely occurs. Hence, Paley has laid it down, that human testimony is characterized by substantial truth under circumstantial variety.⁽²³³⁾ But, as Mr. Hallam has justly observed, 'such a maxim, if not applied with great discretion and much limitation, leads to absurdity, and would be laughed at in any court of justice. The tendency of any mixture of error in testimony is to lessen the probability of the whole. This diminution is in many cases so small, as not perceptibly to affect our belief. But where an essential circumstance in a story is evidently unfounded, it is to pull a stone out of an arch ; the whole fabric must fall to the ground.'⁽²³⁴⁾ Now the very essence of a mythico-historical narrative is, that its details are uncertain, and that the circumstantial testimonies are inconsistent with one another. In proportion, therefore, as the discrepancies are numerous and important, the credit of the narrative is diminished.

Inconsistencies must be expected in all historical evidence. Some witnesses, from inattention, from confusion of different facts, from defective memory, or from inaccurate information, misreport the subordinate circumstances of an event, while they agree with the rest in the substance of their testimony. Thus, Lord Clarendon, in his *Life*, speaks of the Marquis of Argyle having been hung at Edinburgh on a tall gallows the very day of his sentence, whereas all the native witnesses agree in stating

(232) Niebuhr, *ib.* vol. i. p. 74-5. Speaking of the foundations of the Greek cities in Italy, Niebuhr says : 'With regard to all these dates there are contradictory statements, and we have rather to choose than to decide between them'—vol. i. p. 158, n. 484. In other words, there is no credible evidence in favour of any statement.

(233) See note D, at the end of the chapter.

(234) *Const. Hist. of England*, vol. ii. p. 637 (ed. 1829) ; note on *Icon Basilikē*.

that he was executed by decapitation, and that a day intervened between his sentence and death. It is plain that the latter version is the true one, and that Clarendon, writing several years afterwards respecting an event which occurred at Edinburgh, erred as to its details. We may be sure that Hannibal crossed the Alps, though the accounts of his passage over them may be inconsistent or inaccurate. Some witnesses, again, may be influenced by national or personal bias in their report of a fact. Discrepancies arising from the latter cause are particularly observable in the accounts of battles, in which the confusion and excitement distract the attention, and registration of the events, as they occur, is impossible or difficult. The differences as to the precise time at which the Prussians came up at the battle of Waterloo may serve as an example. Again: in a case where concealment has been studied and deceit has been practised, the fact is difficult to determine, and historical testimony is always more or less conflicting. The poisoning at Jaffa, the death of Pichegru, the execution of the Duc d'Enghien, and the origin of the burning of Moscow, are instances of historical uncertainty arising from this source.

But the divergences which occur in legendary accounts are very different from such inconsistencies in historical testimony. These do not relate merely to details of minor importance; they extend to the whole colour and texture of the narrative; to the chronological position of the occurrence, and to its relations with other events; and they are so important and extensive as to render nearly all firm historical footing impossible. All the objects assume the appearance of a mere phantasmagoria; and the mind finds it difficult to rest on any fixed point. Besides, even when the testimonies as to historical events are contradictory, the witnesses are known, and there are accepted tests for trying their credibility. No person can decide in favour of any version, without assigning definite reasons for preferring one set of depositions to another. But in comparing different accounts of a mythico-historical period, no such process is possible. The original witnesses are unknown, and cannot be traced; and the

existence of the traditionary account is an ultimate fact, which cannot be resolved into its elements: its origin is veiled in impenetrable obscurity.

The ancient writers, in dealing both with mythical and mythico-historical narratives, paid little regard to external evidence. They seldom inquired whether the account was attested by credible contemporary witnesses, or could be traced up to them through a faithful tradition.⁽²³⁵⁾ In general, they judged the story by the canon of *internal probability*—if it stood this test, they were satisfied; if it did not, they either rejected it, or, by arbitrary alterations and omissions, reduced it into such a form as they deemed probable.

Thus, Hecateus, the early mythological historian, began his collection of genealogies thus: 'Hecateus of Miletus says as follows: I write these things, as they seem to me to be true: for the stories of the Greeks are, as they appear to me, many and ridiculous.'⁽²³⁶⁾ Thucydides, in like manner, rationalized the Homeric description of the Trojan war; he wrote an account of it, 'as it seemed to him to be true.' The Greek and Roman writers disbelieved the popular versions of their early history, because it was full of marvels and personal appearances of the gods, not because it was unsupported by credible testimony.

(235) A striking instance of this style of criticism is afforded by the manner in which Plutarch deals with the chronological objection to the supposed colloquy of Solon and Croesus: 'Some writers (he says) have attempted to show that it is a fiction, on chronological grounds. But, looking to the probability of this colloquy, and its attestation by numerous witnesses [none of them, be it observed, coëval with the alleged event], and, what is more, its conformity with the character of Solon, with his magnanimity and wisdom, I am not prepared to sacrifice it to certain chronological tables, which, after a thousand attempts at correction, have never been brought into harmony.'—*Solon*, c. 27. It was not often that the ancient historians reasoned about alleged facts, as the same writer reasons with respect to the statement of Craterus, that Aristides was condemned by the Athenians, for taking bribes, to a fine of 50 minas, and died in banishment, being unable to pay the fine. 'Now Craterus (says Plutarch) has produced no written evidence of this fact; neither the sentence of a court, nor a decree of the assembly; although he is accustomed fairly to transcribe such documents, and to cite the names of his authorities.'—*Aristid.* 26. Concerning the collection of decrees by Craterus, see *Fragm. Hist. Gr.* vol. ii. p. 617.

(236) *Fragm.* 332, ed. Didot. Compare *Fr.* 346.

Hence, they were contented to accept it as a true narrative, when the portents and other supernatural incidents had been eliminated; though the skeleton of the story was just as destitute of external testimony, as the full account before the improbable parts had been removed.⁽²³⁷⁾ This mode of deciding on historical credibility by mere internal evidence, leads to the same erroneous results as the argument of Tacitus respecting the phoenix would lead to in natural history. Tacitus refuses to believe that the phoenix lives 500 years, and that he carries the dead body of his father, in order to burn it on the altar of the sun: these and other stories told of the phoenix are, he says, uncertain, and mixed with fable; but he entertains no doubt that the bird is sometimes seen in Egypt.⁽²³⁸⁾ According to this mode of reason-

(237) Dionysius praises Thucydides for not introducing stories of nymphs, and monsters, and demigods into his work, *καὶ ἄλλας τοιαύτας ἀπίστους τῷ καθ' ἡμᾶς βίῳ, καὶ πολὺν τὸ ἀνόητον ἔχειν δοκούσας ἱστορίας*.—*De Thuc. Jud.* c. 6. Dionysius here refers to a standard of belief respecting the order of nature, established in his own time, and different from that formerly prevalent. Cicero draws the same distinction: 'Antiquitas enim recepit fabulas, fictas etiam nonnunquam incondite; hæc ætas autem jam exulta, præsertim elidens omnia quod fieri non potest, respuit.'—*De Rep.* ii. 10. The author of the *Parallels* of Plutarch says, *τὰς ἀρχαίας ἱστορίας, διὰ τὰ παράδοξα τῆς πράξεως, οἱ πλείστοι νομίζουσι πλάσματα καὶ μύθους τυγχάνειν*, c. 1; compare *Theseus*, c. 1. Likewise Strabo, *τὰ μὲν σφόδρα παλαιὰ καὶ μυθώδη, καὶ οὐχ ὁμολογούμενα τὰ πολλὰ ἴσμεν* . . . *τὰ δὲ φαινόμενα ἡμῖν καίρια λέγοντες*, ix. 4, § 18. This mode of fabricating history is thus characterized by Niebuhr: 'These are the writers whom Dionysius and Plutarch mention with approbation as rational men, who related what was probable—held to what was natural. . . . The wish of these historians was to gain the whole mythical age for history; their assumption, that the poetical stories always contained a core of dry history; and their system, to bring this core to light by stripping it of the marvellous.'—*Hist. of Rome*, vol. i. p. 198. This system of interpretation is fully illustrated by Mr. Grote, *Hist. of Greece*, vol. i. c. 16. Dionysius, in describing the death of Romulus, contrasts *οἱ μυθωδέστερα τὰ περὶ αὐτοῦ ποιοῦντες*, with *οἱ τὰ πιθανώτατα γράφοντες*, ii. 56; and in c. 61, he speaks of *οἱ τὰ μυθώδη πάντα περιαιροῦντες ἐκ τῆς ἱστορίας*. Livy declares, after describing a prodigy supposed to have occurred at the taking of Veii, that in ancient events, he is satisfied that probability should be the standard of belief, and he considers such marvels as fitter for the stage than for history: 'Sed in rebus tam antiquis, si, quæ similia veri sint, pro veris accipiantur, satis habeam. Hæc ad ostentationem scenæ gaudentis miraculis aptiora quam ad fidem, neque affirmare neque refellere est operæ pretium.'—v. 21. Compare likewise the excellent remarks of Mr. Price, in his preface to Warton's *History of English Poetry*, p. 78, on the attempt to apply a similar mode of reduction to the work of Geoffrey of Monmouth. He thinks that the failures of Dionysius and Plutarch, and the example of Livy, ought to have served as a warning against this mode of fabricating history.

(238) 'Hæc incerta et fabulosis aucta. Ceterum adspici aliquando in

ing, the phoenix, stripped of its marvellous adjuncts, is to be received as a real species in natural history.

The results obtained by applying the same method to a mythico-historical narrative are scarcely less satisfactory. In a narrative of this sort, we may be convinced, partly from the date of the events, and partly from the probable existence of some contemporary registration, that the outline of the story is historical. But unless we can estimate the value of the testimonies by which the several parts of the narrative, probable and improbable, are supported, we can never attain to historical certainty.⁽²³⁹⁾

All historical testimonies must, indeed, be tried by the canon of probability.⁽²⁴⁰⁾ The same rules of credibility apply to historical as to judicial evidence. If witnesses depose to improbable facts before a court of justice, their veracity is open to suspicion. The more improbable the event which they attest, the stronger the testimony required.⁽²⁴¹⁾ Contemporary attestation

Ægypto eam volucrum non ambigitur.—*Ann.* vi. 28. The fabulous particulars respecting the phoenix are collected in the first *Idyl* of Claudian.

(239) The true principles of judgment with respect to traditional stories, formed by an incrustation of fictitious circumstances upon a nucleus of fact, are laid down by Mr. Price:—'However largely we may concede that real events have supplied the substance of any traditive story, yet the amount of absolute facts, and the manner of those facts, the period of their occurrence, the names of the agents, and the locality given to the scene, are all combined upon principles so wholly beyond our knowledge, that it becomes impossible to fix, with certainty, upon any single point better authenticated than its fellow. Probability in such decisions will often prove the most fallacious guide we can follow; for, independently of the acknowledged historical axiom, that '*le vrai n'est pas toujours le vraisemblable*,' innumerable instances might be adduced where tradition has had recourse to this very probability, to confer a plausible sanction upon her most fictitious and romantic incidents.'—Preface to Warton's *History of English Poetry*, p. 79.

(240) Respecting historical criticism, founded on internal probability, see Ernesti, *De Fide Historiæ*, § 39, *sqq.*; and the '*Dissertatio de Fide Historiæ ex ipsâ Rerum quæ narrantur Naturâ judicandâ*,' in Griesbach's *Opuscula Academica*, ed. Gabler (2 vols. Jena, 1824), vol. i. p. 167-226; also Rûhs, *Propædæutik*, p. 243.

(241) The rules respecting probability, recognised in the civil law, are thus laid down by Mascardus:—'*Testis deponens non verisimilia non probat, sed est admodum de falso suspectus. Quod enim non est verisimile, non est credibile nec considerabile. Verisimilitudo cognata nature, et e contra non verisimile nature adversatur. Id enim quod distat a verisimili*

by eye-witnesses is not an infallible security against falsehood. Eye-witnesses may be deceived themselves, or may deceive others, as the daily experience of courts of justice sufficiently evinces.⁽²⁴²⁾

But, on the other hand, attestation by contemporary witnesses is a necessary condition for historical truth; and without it, no narrative claiming to be historical can be admitted as such. It may comply with all the laws of probability—it may be in entire accordance with the order of nature—it may exhibit perfect internal coherence; but this alone is insufficient to invest a narrative with a historical character. A historical narrative, however probable, must be well-attested. If it is merely probable, without being well-attested, it cannot be received as historical.

We may remark, finally, in parting with the subject of mythical and mythico-historical narratives, that fiction sometimes grafts false facts upon real names, and sometimes combines with real facts, either imaginary persons, or persons who really existed, but were not connected with the events in question. Thus, the romances of chivalry surround Charlemagne with fictitious companions and adventures; and it is by no means impossible, (though we are unable to ascertain the fact,) that Agamemnon, Menelaus, Nestor, and other of the heroes mentioned in the poems of Homer, may have really ruled in the Greek states. Again, the political and religious institutions

imaginem habet falsitatis.—*Conclus.* 1371. ‘Tertio generaliter inferri potest quod semper testibus verisimiliora deponentibus magis credendum est. Quarto inferri potest quod testes deponentes super non verisimili debent optime concludere, et esse omni exceptione majores.’—*Ib.*

Where an event is improbable, clear contemporary evidence is peculiarly necessary. Hence, Gibbon rejects the story of the will of Arcadius, who is reported by Procopius, writing at a distance of a century and a half, to have appointed the King of Persia as guardian of Theodosius during his minority. ‘As it stands (he says) without a parallel in the history of the world, we may justly require that it should be attested by the positive and unanimous evidence of contemporaries. The strange novelty of the event, which excites our distrust, must have attracted their notice; and their universal silence annihilates the vain tradition of the succeeding age.’—*Decl. and Fall*, c. 32.

(242) See note C, at the end of the chapter.

attributed to Theseus, Romulus, and Numa, doubtless existed, though the supposed founders may never have lived ; while many of the laws attributed to Lycurgus, Solon, Servius, and other celebrated lawgivers, were the work of obscurer authors. Whichever course fiction may chuse, whether it introduces an unreal actor in the midst of real life, or invests a historical personage with fabulous achievements, the only certain test of truth is the evidence of actual witnesses ; and where this has not been preserved in an authentic form, we must rest satisfied with ignorance and uncertainty.

§ 20 We have now shown that it is essential to history to be true, and have also considered the principal causes of deviation from historical truth. But although everything recorded by the historian ought to be true, everything true ought not to be recorded. The historian ought, like the observers in the physical sciences, to know what is worth observing : he ought to record only those facts which it is important that mankind should learn and remember ; he should select, out of the vast mass of contemporary occurrences, those events which have an important bearing upon the destinies and character of the nation whose story he is relating. A history might be so copious and minute in its narrative, might record events so trivial, and so little connected with each other, as to give no distinct idea of a course of transactions, and, therefore, to convey little instruction : it might be as miscellaneous, as desultory, and as comprehensive as a newspaper, which, like a history, is a chronicle of contemporary events. On the other hand, a work of annals, meagre and brief, presenting a mere skeleton of events, and only fixing certain great landmarks in the destinies of a nation, is unsatisfactory and insufficient.⁽²⁴⁾

Every historian must exercise a certain discrimination in the

(24.) Ammianus Marcellinus, says Gibbon, declares that he means only 'ipsas rerum digerere summitates' (xxxi. 5). 'But (adds Gibbon) he often takes a false measure of their importance ; and his superfluous prolixity is disagreeably balanced by his unseasonable brevity.'—*Decline and Fall*, c. 26, note.

choice of the events which he records.⁽²⁴⁴⁾ Many will present themselves to his notice which he will reject. Thus, Tacitus remarks that it does not consist with the dignity of the Roman people to record in its annals the building of a temporary wooden amphitheatre by Nero, in the Campus Martius. Such an event, he says, belongs rather to the official register of the city.⁽²⁴⁵⁾ It is necessary for every writer of history to form to himself a clear conception of his subject and purpose; and he must then measure the importance of events by that standard.⁽²⁴⁶⁾ The criterion is essentially variable; and facts which might be material for one species of history, might be immaterial for another. In the first place, much depends on the scale which the historian adopts for his painting. Where the figures are of the size of life, many details are introduced which the miniature-painter suppresses. Thus, the contemporary historian, who relates in part the results of his personal experience, which otherwise would be forgotten and lost, may be copious and minute in his narratives: while, on the other hand, the compiler of historical compendia, and of systems of universal history, for the instruction of youth, or for purposes of reference, presents merely a succinct outline of the most important events. Many facts would be suited to the history of a province, a county, or a town, which would be unsuited to the history of a nation. Again, a history may be confined to a certain class of events: as a history of the church, a military history, a history of law and legislation: in this case, those facts must be selected which are pertinent to the subject-matter, and all others must be discarded. The relevancy of an event to the purpose of the history is the test by which its admissibility must be tried; without this test, the historian would

(244) Compare Daunou, tom. vii. p. 344.

(245) 'Cum ex dignitate populi Romani repertum sit res illustres annalibus, talia diurnis urbis actis mandare.'—*Ann.* xiii. 31. The 'acta urbis' was a civil register kept by public officers, originally instituted by Julius Caesar. See Lipsius, *Exc. ad Tac. Ann.* v.; Leclerc, *Des Journaux chez les Romains* (Paris, 1838), p. 181; Ritter *ad Tac. Ann.* iii. 3. v. 4. The subjects of history are called by Cicero 'res magnæ memoriæque dignæ.'—*De Orat.* ii. 15. Compare Bacon, vol. ii. p. 113.

(246) See Daunou, *ib.* p. 349.

wander about in a boundless wilderness of facts. All precepts with respect to the selection of historical facts must be vague and general. Much instruction is, however, to be derived from the contemplation of good models, and of the practice of the most approved authors. We may contrast the jejune brevity of a mediæval chronicle, with the instructive copiousness of a modern writer, whether describing contemporary events, or recounting and interpreting the history of former ages; and we may observe the differences of method pursued by these two classes of historians.

§ 21 It is further to be noted, that a great distinction should be made, with respect to the choice of facts, between the historian, properly so called, and the contributor or purveyor to history. Those who supply the historian with facts, must leave much of the discrimination to him, and must be copious, as well as accurate, in their information. It is useful to observe on a large scale, and to collect much authentic material, which will afterwards undergo the winnowing process. This is equally the case with contemporary observers, and with the pioneers of bygone history, who are known as archaeologists or antiquaries. From the facts collected and arranged by the latter class of writers, the history of past ages is in great measure composed.⁽²⁴⁷⁾ Their services are invaluable to the historian, and he frequently applies and turns to account, in a manner which they never contemplated, facts which their diligence had brought to light. Hence, it is difficult to draw the line between those facts which are important, and those which are unimportant to the historian. That which is dross to one man, to another may be precious ore. A power of seizing remote analogies, and of judging by slight though sure indications, may extract a meaning from a fact which, to an ordinary sight, seems wholly insignificant. For example, the genuineness of a book may depend on very minute circumstances; and yet the genuineness of a book may be a

(247) On this class of writers see Daunou (*ib.* p. 560), whose remarks appear to me to be only true to this extent—that minute antiquarian discussions ought to be separated from history.

historical question of primary importance. Many of the questions discussed in Bentley's *Dissertation upon Phalaris* are, in themselves, trifling—for example, the authorship of Thericlean cups: nevertheless, small as they may be, they serve to establish the conclusion which he undertook to prove, viz. the spuriousness of the letters of Phalaris. Those who desert the high road, and explore the bye-paths of history, often meet with objects to reward their research, by furnishing valuable materials to others. Historical facts, effectively applied, and turned to a good account, are not to be judged merely by their bulk. They may resemble Tydeus, of whom Homer says:

μικρὸς μὲν ἔην δέμας, ἀλλὰ μαχητής.

they are often used by the historian, as by the lawyer, in a case of circumstantial evidence. A fact of the most minute, and apparently trivial nature, when considered by itself—such as the print of a foot, the mark of a hand, a fragment of clothing—may be converted, at a criminal trial, into the most decisive proof of guilt, when placed in connexion with other circumstances, and illustrated by a clear train of reasoning. Like Daniel in the story of Susanna, the historian may extract from apparently trivial events, conclusive evidence with respect to a controverted question of history; and hence it concerns him to be furnished with full information, even if much of it proves upon examination to be immaterial.⁽²⁴⁸⁾ An exact journal of the events in a private family, showing how each day was passed—when each member of it rose and went to bed—how he occupied his time—when he took his meals, and of what these consisted—the items of the household expenditure—the duties and mode of maintenance of the servants or slaves—the attacks of disease to which each person was subjected—and other similar details of every-day life, would be uninteresting to contemporaries: but if we could obtain such a journal for a Roman, or Athenian, or even for an Egyptian or Assyrian household, with what interest should we

(248) On the importance of minute accuracy in history, see Griffet, cited above, p. 246, n. 137.

scrutinize it ; and how many facts in the state of ancient nations would it disclose to us ! The minute journal of Pepys, though written apparently for his own private satisfaction, and certainly without any view to history, has now, though belonging to a period comparatively recent, become an important aid to the historian. If the life of every man of political eminence was chronicled like that of Dr. Johnson, such biographies would furnish invaluable materials for history, though not themselves histories.

It is, as we have already seen, the business of erudition to perpetuate, arrange, and illustrate historical testimony ; as it is the business of the observer in the physical sciences to collect and arrange facts for the scientific speculator. The business of both is essential to scientific knowledge, and hence nothing can be more illiberal, or narrow-minded, than the contempt with which persons, devoted to the one department of inquiry, sometimes view the pursuits of persons devoted to the other.⁽²⁴⁹⁾ Thus, a philologist or antiquarian may ridicule the naturalist for his collections of insects and minerals—for his dried specimens of plants—for his treatises on extinct fossil species—or for his microscopic examination of a spider's web, or a frog's cellular tissue. The naturalist, on the other hand, sneers at the minute verbal criticism, the cabinets of broken pottery and half-defaced inscriptions—the worm-eaten manuscripts—the dissertations on the worship of a heathen god—the prolix treatises upon a date, the legend of a medal, or the remains of a ruined temple or palace—in which the student of ancient history takes delight. All interest about the scientific observation and registration of facts is unintelligible to the uninstructed ; and to them, *both* these classes of pursuits are equally ludicrous. But it is lamentable to see a civil war waged between persons of different

(249) The importance of erudition for purposes of history is fairly recognised by M. Comte, *Phil. Pos.* tom. iv. p. 423. In tom. iii. p. 304, he opposes *science* to *mere erudition*—an opposition which is just. Erudition, of itself, does not constitute science. It corresponds in politics to observation and registration in physics. An astronomical or meteorological observer is not concerned with science more than the antiquarian.

scientific pursuits, who ought to recognise the common principle, that knowledge is to be sought for its own sake, and without any view to its immediate application.

§ 22 In general it may be said, that as civilization has advanced, the sphere of political history has been enlarged, and a greater number of facts relating to a political society been included within it. History, as we have already seen, is properly a record of events concerning a nation in its collective capacity, and particularly the acts of its government. The Greeks, with whom historical composition originated, and their followers the Romans, put a strict construction upon this idea of history. They gave little more than a narrative of the public acts of the state whose fortunes they recounted. Owing to the imperfect knowledge of geography which existed in the ancient world—as an ancient reader had no maps, or geographical manuals and gazetteers—it was often necessary for the historian to interpolate descriptions of countries and nations, in order to illustrate military operations, and to explain the nature of conflicts in which the conquering states of Greece and Italy were involved.⁽²⁵⁰⁾ But beyond this circle they did not in general

(250) See, *e. g.*, the elementary description of Africa in Sallust, *Bell. Jug.* c. 17. The geographical descriptions in Herodotus are introduced on the same principle.

As to the introduction of geographical descriptions into history, see Polybius, iii. 36-8; iv. 39-43. He remarks that in his time, when all places had been visited by sea and land, it was no longer fitting for a historian to trust to the accounts of poets and mythologists.—*Ib.* c. 40.

Diodorus, in the introduction to his history, says that he devoted thirty years to its composition; and with much suffering and danger travelled over a large part of Asia and Europe, in order that he might see with his own eyes the most important places. He did this, because not only ordinary historians, but writers of the first eminence, had committed many errors through their want of geographical information.—i. 4.

In the prospectus of a newspaper, entitled the *Country Gentleman's Courant*, published in 1706, it is announced: 'Here the reader is not only diverted with a faithful register of the most remarkable and momentary [*i.e.* momentous] transactions, both at home and abroad, which occurs to our knowledge in a week's time, but also with a geographical description of the most material places mentioned in every article of news; whereby he is freed the trouble of looking into maps or books of geography for his information, and his reading is rendered easy, profitable, and pleasant.'—Nichol's *Literary Anecdotes*, vol. iv. p. 82. Such illustrations would not now be requisite for the readers of a newspaper.

pass. Hence, in reading an ancient historian, we are conscious of a certain want; we miss information which we would gladly obtain: we regret the narrowness of the canvass within which the artist has confined his composition. Though equal in natural sagacity and powers of composition to any modern historian, they sometimes disappoint by the scantiness of their revelations. In reading Thucydides and Tacitus, we cannot but feel that such consummate masters of the historical art could, if they had thought fit, have told much more which it concerns us to know. Thucydides avowedly intended his work for posterity, and therefore established a severe canon of veracity in framing his narrative. He excluded everything which was not authenticated by credible testimony; but he did not include all the authentic facts within his knowledge, which, to a remote spectator, would have served to throw light upon the course of events.⁽²⁵¹⁾ Greece was, in substance, the only civilized country when Thucydides wrote; and it probably never occurred to his mind to contemplate the contingency that his work, destined as it was for the perusal and instruction of all succeeding generations, might be read by any but a Greek—by any but a person to whom the institutions, religion, manners, and modes of thought of the Greeks were familiarly known by personal experience. Herodotus is more communicative, sometimes almost to garrulity: but his lively and dramatic narratives are full of instruction to a modern reader; and much of the prolixity which his countrymen may have censured⁽²⁵²⁾ is invaluable to a posterity of twenty-two centuries.

In estimating the method and style of the ancient historians, we should bear in mind the conditions under which they

(251) 'Thucydide craint toujours de sortir d'un sujet qu'il a circonscrit avec scrupule. . . . en plusieurs autres endroits, on pourrait se plaindre de la sévérité extrême avec laquelle il écarte ce qui avoisine de sa matière.' —Daunou, tom. x. p. 39.

(252) Gellius calls Herodotus *homo fabulator* (*N. A.* iii. 10, § 11); but 'Ἡρόδοτος ὁ μυθολόγος, in Aristot. (*Gen. An.* iii. 5) has been correctly altered into 'Ἡρόδοτος ὁ μυθολόγος by C. Müller, *Fragm. Hist. Gr.* vol. ii. p. 32.

composed. The penury of writing materials, the absence of printing and of a post-office, the imperfection of roads, and the want of maps and of scientific measures of time, were important circumstances, which determined many parts of their plan. The mere mechanical impediments against which they had to contend were serious.⁽²⁵³⁾

Modern writers have enlarged the circle of history.⁽²⁵⁴⁾ They have perceived more clearly the bearing which many social institutions, which the state of science, literature, the fine arts, the useful arts, exercise upon the destinies of a nation—and have included a greater range of subjects in political history.⁽²⁵⁵⁾ The invention of printing and paper, the facilities for communication of all sorts, and the multiplication of statistical facts, have likewise placed at the disposal of the modern historian many resources which were inaccessible to ancient writers. He has, moreover, derived much assistance from the extension and improvement of other practical sciences, as astronomy, which has furnished a precise measure of time, and geography, which has furnished accurate surveys of the surface of the earth, with descriptions of its physical features and ethnology.

He, therefore, commands a wider horizon, and is armed with

(253) 'L'art de la critique n'a jamais été connu des anciens, et moins des Romains qu'un autre peuple. La grande cause en est, qu'ils ne connaissaient pas l'imprimerie.'—Léon de Closset, *Essai sur l'Historiographie des Romains*, p. 243. As to the influence of printing on history, see Volney, *Voyage en Egypte*, tom. ii. p. 287.

(254) Eichhorn remarks that historical materials, from the increased use of writing, multiplied in the eleventh century, *Gesch. der Litt.* vol. i. part ii. p. 837. Writing materials were, however, still dear in the 12th and 13th centuries.—Raumer's *Hohenstaufen*, vol. vi. p. 487.

(255) Upon the practice of introducing into a history digressions or episodes, containing a general view of the state of a nation with respect to its political and social relations, arts, literature, manners, &c., see Daunou, (*ib.* p. 583-90), who distinguishes four sorts of digressions, tom. vii. p. 575. Compare the remarks in the *Ed. Rev.* vol. xlvii. p. 365. On digressions in history, see Mascardi, *Dell' Arte Istoria*, tratt. iii. c. 4. An example of a short digression, containing an account of the political state of the people, may be seen in Sallust, *Bell. Jugurth.* c. 41, 42. Plutarch (*De Herod. Malign.* c. 3) says that digressions in histories are chiefly devoted to mythical and antiquarian narratives, and also to panegyrics. Thus, Dionysius (vii. 70-3) has a digression on the Roman games.

more powerful weapons, than an ancient historian. The improvements of social institutions, and of the useful arts, have almost as much widened his sphere of vision, as the discovery of the telescope has enlarged the domain of the astronomer. But while the subjects to be described have been multiplied, he must take care that all his descriptions are subordinate to the main course of the narrative, and serve to illustrate the plot of the historical drama. The continuity of the events ought always to be present to his mind. History is essentially a series, involving an uninterrupted succession of terms. It is not merely a picture, or panorama, in which a circle of contemporary events is portrayed from a single fixed station—it is a representation of a number of objects moving successively before the eye, like the impression obtained by making a voyage along a river, or a journey through a country. As we pass on, new objects come in sight; former objects also change their relative position with other objects, and the historian—so to speak—measures their parallax. The historian may occasionally halt in his course, and take a survey of surrounding objects, which, in his progressive change of position, he cannot deliberately note; but these resting places should be few, and should not arrest his forward movement, but should rather serve to hasten his speed when the narrative is resumed.

§ 23 It is the ever-changing character of a human community which impels the historian to introduce, from time to time, descriptive accounts of its social state. If a community of men were like a community of bees, a single accurate description of its state would suffice: the work, done once, would be done for ever, and would not require renovation. In this respect, the subjects of physical science partake of the immutable attributes of the ocean, as sublimely described by Lord Byron—

Time writes no wrinkle on thine azure brow;
Such as creation's hour beheld thee, thou art now.

Every human society, on the other hand, is mutable. It is always changing its attributes. Its political and social institutions, its manners, knowledge, command of the arts, its relations

with other countries, and other circumstances, undergo variations. A tribe of savages, indeed, cannot become more barbarous; and if it does not improve, it resembles the brute creation in its unchanging character. But no community above the savage state is strictly stationary: all advance or recede, more or less, in civilization;⁽²⁵⁶⁾ all pass through certain phases of a national existence. Even those Oriental countries—such as China and Japan—which are considered the types of the stationary state, have undergone considerable changes within our knowledge; and notwithstanding the general immutability of character which marks the civilization of the Asiatic nations, yet, wherever any authentic history of them exists, we are able to trace material changes in successive periods of time. The shiftings of the seats of empire alone are pregnant with mighty consequences. The ruins of Nineveh and Babylon can now be scarcely descried; Susa, Ecbatana, and Persepolis, are no longer towns. The gigantic palace of the Parthian kings stands in the midst of a depopulated waste. The colossal temples and halls of the hundred-gated Thebes are half buried under the drifting sands of the desert. Delhi, shorn of its imperial grandeur, has sunk into a provincial city. Whatever may be his theme, the historian will find that, at successive stages of his narrative, the nation whose acts and destinies he describes is no longer the same.

§ 24 The history of the human race, considered as a whole, is the aggregate of the histories of the several political communities into which mankind is divided. Each of these histories has its individual character; and no general expression can be found which will combine all of them, consistently with truth, in a single description. Universal history is not formed by omitting all that is peculiar in the history of different nations, and including only what is common to all—it is not composed by a process of abstraction, aiming at scientific unity: but it consists merely in aggregating one history to another, and in tracing the

(256) Mill's *Pol. Ec.* vol. 2, p. 386.

fortunes and actions of the several nations in a series of parallel lines.⁽²⁵⁷⁾ This method of treating universal history is generally adopted in the works which are designated by this title, and are received as such in the literature of modern nations.

Attempts, however, have been made to simplify universal history, and to invest it with a character of unity, in two ways; first, by that species of history which has been called a 'history of man;' secondly, by that which is now usually called 'a history

(257) The historical work of Ephorus included the whole of Greece, and its relations with foreign countries, and was not confined to any one state.—See *Hist. Gr. Fragm.* vol. i. p. lix. ed. Didot. Indeed, the work of Herodotus, though less comprehensive, includes all the countries then known to the Greeks (Ulrici, *Ant. Hist.* p. 178, n. 2). Unless, however, Ephorus forms an exception, Polybius first undertook to write a history of the whole world—a universal history.—i. 3, 4; ii. 37, § 4; iv. 28; v. 33; viii. 4. Such an undertaking was recommended in his time by the extension of the Roman power, which brought all the states round the Mediterranean into relation with that conquering state. This is what Polybius means by the 'whole world.' The plan of Diodorus for his *Βιβλιοθήκη ἱστορικὴ* was likewise to narrate the history of every country, from the fabulous ages to his own time.—See his introduction, i. 1-3.

The work of Trogus Pompeius was a universal history, as including all the countries known to the Greeks: 'Græcæ et totius orbis historias Latino sermone composuit.'—Justin, *præf.* In his work, 'omnium seculorum regum, nationum, populorumque res gestæ continentur.'—*Ib.*

Florus, in the preface to his *Epitome Rerum Romanarum*, says: 'Ita late per orbem terrarum arma circumtulit, ut, qui res ejus legunt, non unius populi, sed generis humani facta discant.' The history of Gibbon has likewise, for the same reason, to a considerable extent the character of a universal history.

Since the dissolution of the Roman empire, and the commencement of mediæval history, the number of independent states whose acts it is necessary to follow multiply, and universal history can only be written by co-ordinating various special histories in parallel lines. Even those writers who generalize the most, and exclude all detailed narrative (as Hallam, in his *History of the Middle Ages*), are compelled to follow this method.

C. v. Rotteck, in his introduction to his *Allgemeine Geschichte*, defines the idea of *weltgeschichte*, or the history of the world, which he distinguishes from universal history, c. 9-12. The subject of *weltgeschichte* (he says) is a unity, not an aggregate, and is a whole, not a collection. It is the history of the earth and of mankind, as a connected whole. The events which it narrates are the most remarkable and important—those which have, not a local, temporary or special, but an universal and eternal interest. *Weltgeschichte* is the last and highest result of the orderly combination of all special histories. It is a connected account of all the main revolutions of the earth and the human race, from which their former and present condition, with its reasons, can be understood.—§ 82, 83, cf. 112. It is not an abstract of all special histories. A work of this sort is wanting in unity. It is distinct from universal history.—§ 85-8. The distinction here attempted between a history of the world and universal history (already made by Schlözer, see Ulrici, p. 176, n.) is fanciful and impracticable.

of civilization.'⁽²⁵⁴⁾ A history of man,⁽²⁵⁵⁾ of which Lord Kames' work may be taken as the earliest, and the work of Herder as the most celebrated type—is in part a physical history of man; a history of man considered as an animal, with reference to the physiological properties of the human race, its varieties and races, the alterations which these have undergone, and the limits to their possible alterations. The physical history of man, as it has been treated by Dr. Prichard and others,⁽²⁵⁶⁾ is, however, distinct from his political history, though necessary as a foundation for it. A history of mankind, so far as it is not a physical history

cable: no such unity is attainable in the history of mankind. Rotteck himself, in his own history, follows the ordinary practice, and makes his work a congeries of separate national histories.

Ulrici (*ib.* p. 176-92) lays it down, that the necessary principle of a universal history is as clear and intelligible as it is fixed and certain. It is contained in a few words: the idea of the unity of the entire human race, as of a personal and individual whole. It is the biography of mankind.—p. 176. This notion of a historical unity of mankind is, however, quite fanciful.

In the *Discours sur l'Histoire Universelle*, by Bossuet, the events are regarded from the Christian point of view, and in this manner an apparent unity is given to the narrative. The history, however, stops at Charlemagne.

Concerning the earlier works of universal history, see Wachler, vol. i. p. 216-22. The compendium of Sleidanus, *De Quatuor Summis Imperiis*, was so popular, that fifty-five editions of it were printed between 1556 and 1676.

A copious account of the later works of universal history by French, German, and English writers, is given by Wachler, *ib.* vol. ii. pp. 60, 307, 392, 463-73, 615, 870-5, 1138; and by C. v. Rotteck, *Allgemeine Geschichte*, introd. § 124.

(258) Called by the Germans, *Culturgeschichte*, or *Bildungsgeschichte*. See Wachsmuth, *ib.* p. 36-8, and Adelung's work with the former title.

(259) The subject of his *Sketches of the History of Man* (first printed in 1774) is thus described by Lord Kames:—'The human species is, in every view, an interesting subject, and has been, in every age, the chief inquiry of philosophers. The faculties of the mind have been explored, and the affections of the heart; but there is still wanting a history of the species, in its progress from the savage state to its highest civilization and improvement.'—vol. i. p. 1.

As to the meaning of a history of man, or *geschichte der menschheit*, see Wachsmuth, *ib.* p. 33; Zacharia, *Vom Staate*, vol. ii. p. 228. The earlier writers are enumerated in Wachler, *ib.* vol. ii. p. 1139. Wachsmuth states that the name was borrowed by the German writers from the English. Compare Wachler, *ib.* p. 617-22.

(260) A summary of the modern researches respecting the natural history of man may be found in Dr. Hall's Introduction to Dr. Pickering's work, *On the Races of Man*: London, 1850; Bohn.

of man, nearly coincides with the other species, which we have noticed as a history of civilization. A history of civilization is an attempt to view mankind in general, or some group of nations, as one progressive body or corporation, advancing by regular and successive steps; and to trace that progress either from the dawn of history up to the present time, or for some intermediate period. A historical survey of this sort aims at exhibiting a selection of the cardinal events and turns in human affairs, on which the progressive civilization of nations has chiefly depended; without giving a connected narrative of occurrences, it endeavours to trace a connected series of causes and effects, and is sometimes denominated the philosophy of history.⁽²⁶¹⁾

We shall have occasion, in the concluding part of this treatise,⁽²⁶²⁾ to examine the methods by which the progress of civilization is to be traced. Here we will only remark, that no history of the movement of the entire human race can be written, without co-ordinating the histories of the several communities, and keeping them distinct from each other. There may be certain points at which the histories of several nations intersect; some of them may have certain institutions and states of society in common; but the history of the human race, even if we limit ourselves to the progressive portion of it, can never be reduced to a single line. Particular nations may be taken as representatives of the most advanced and civilized portions of mankind, as the Greeks and Romans in antiquity; but their history has much that is peculiar, and it must not be assumed that the political, social, religious, and intellectual changes which they underwent can be taken as types of the necessary development of civilization. It is impossible to eliminate the names of nations and individuals, to discard all reference to time and country, and to replace the living characters of history, by a set of abstract

(261) Wachsmuth, *ib.* p. 47. Compare the Introduction to Dr. Miller's work, entitled *History philosophically illustrated* (London, 1832), and the Introduction to F. v. Schlegel's *Lectures on the Philosophy of History*. Engl. trans.; ed. Bohn. On philosophic history, see Volney, *Leçons d'Histoire*; *Œuvres*, p. 586.

(262) Below, ch. xxvii.

singly or in bodies, but abstractions, it is impossible to try any proposition by a historical standard, until it has been translated out of this symbolical language into a dramatic form, in which real men bear a part.

This view of the subject is adopted by M. Guizot, in his lectures on the history of modern civilization, and, indeed, governs their arrangement and contents. He begins by laying it down, that there is a certain civilization common to the states of Western Europe, and that it consists of scattered elements, which must be sought in the history of the different countries. He devotes fourteen lectures, forming one volume of his work, to the leading causes of European civilization :⁽²⁶⁾ but, having completed this general survey, from the fall of the Roman empire to the French revolution, he declares that, as soon as the historian descends from the most general facts, the unity of his subject disappears; and that in order to trace the progress of civilization in detail, it is necessary for him to narrow the field of inquiry.

militaire, j'ai jugé convenable, pour plus de clarté, de me rapprocher davantage des formes de l'appréciation concrète. Mais il importe à notre but principal de reconnoître directement que je ne me suis ainsi nullement écarté, au fond, du caractère abstrait indispensable à une telle opération, suivant les explications préliminaires du chapitre précédent. Car, *ces dénominations de Grec et Romain ne désignent point ici essentiellement des sociétés accidentelles et particulières; elles se rapportent surtout à des situations nécessaires et générales, qu'on ne pourrait qualifier abstraitement que par des locutions trop compliquées* (*ib.* p. 265). According to this explanation, the words *Greek* and *Roman* do not signify the nations so called: they are mere algebraic symbols, to denote certain abstract communities. See also p. 268, note, and p. 295.

(264) Concerning the existence of a common European civilization, see Guizot, *Hist. Gen. de la Civilisation en Europe*, leçon i. In the first lecture of his course, on the 'Histoire de la Civilisation en France,' he thus expresses himself:—' Nous avons reconnu, l'été dernier, qu'il y avait une véritable unité dans la civilisation Européenne; mais cette unité n'éclate que dans les faits généraux, dans les grands résultats. Il faut s'élever au haut des montagnes pour faire disparaître les inégalités, les diversités du territoire, et découvrir l'aspect général, la physionomie essentielle et simple, de tout le pays. Quand on sort des faits généraux, quand on veut pénétrer dans les particularités, l'unité s'efface, les diversités se retrouvent, on se perd dans la variété des événements, des causes, des effets; en sorte que, pour raconter l'histoire avec détail, et y conserver, cependant, quelque ensemble, il faut absolument en rétrécir le champ.' Compare his seventh lecture on European civilization, where he remarks, that his general sketch of the origin of the communes, or free towns, does not apply indifferently to the free towns of each country. Certain features are common to all, but the differences are wide and important.

For this reason he devotes the rest of his course, consisting of forty-nine lectures, distributed over five volumes, to the history of civilization in France exclusively.

§ 25 It appears, from the preceding remarks, that the essence of political history is to be a register or record, including nothing false, and omitting nothing important with reference to its end. It is a collection of observed facts, arranged in a proper chronological series, so as to show their mutual sequence or dependence, and subjected to a proper process of selection, for the sake of rejecting everything trifling or irrelevant. In so far as a history is a collection of observed facts, true and relative to some common subject, it is analogous to a set of observations in astronomy, or any other physical science. There is, nevertheless, a material difference between the modes of exhibiting the results of observations in politics and in physics, to which it is necessary for us to advert.

In the physical sciences, observations are sometimes made without any theoretical view, and laid before the world in their naked state, as is often the case with subjects of natural history. Sometimes, however, they are connected with their scientific employment. The observer uses them himself as a ladder, by which he may climb to a scientific conclusion. He both collects the materials and builds the edifice. But the political historian is merely a collector and arranger of materials. He constructs no political theories himself out of the materials which his industry has accumulated, which his judgment has arranged, and which his sagacity has illustrated. This constant difference between the modes of dealing with observations in physics and in politics appears to rest on two grounds, which we will attempt to explain.

The first of these grounds consists in the great difficulty and complexity of the process by which political history is formed. That which in physics constitutes, in general, only one stage, in politics requires two. In physics, when the phenomena to be observed have been determined, the main difficulty consists in providing fit instruments or methods for observing them. When

this obstacle has been effectually overcome, the mere work of observing and registering the observations (though at first much intelligence may be needed) demands little more than steady attention and mechanical regularity. The observations, as they come from the hands of the observer, are ready for the use of the theorist. Astronomical and meteorological observations, consisting of numerical data, sometimes, indeed, require a further process of digestion ; but even this, when the principle is once settled, consists merely of arithmetical operations. In general, therefore, it may be said that there is no intermediate workman between the original observer and the theorist in physics. Whenever, indeed, the experimental method is applied, such a division would be impossible ; for the experimenter and theorist are necessarily the same person. In all experiments, as was pointed out in the last chapter,⁽²⁶⁵⁾ the process is intelligent, and the general conclusion is drawn by the experimenter himself.

But in politics it is otherwise. The subject-matter of observation is so much more complex than in physics, that not only is it necessary to make a constant separation between the observer and the theorist, but in general, it is further necessary to interpose an intermediate person between these two parties ; and to assign a distinct and a high office to the *digester* of the observed facts. This intermediate person is properly the historian. He stands between the primary observer on one side, and the theorist on the other. As the facts narrated by the historian occur over a wide surface, they cannot be observed by any one person. To supply the facts described in a volume of national history, the observations of large numbers of persons must contribute. Even to form the contents of a single newspaper, how many persons—some employed, and some communicating voluntarily—in various parts of the country, each subscribe their quota. In order to lay the foundation of a historical narrative, it is necessary to obtain the services of short-hand writers, and other reporters of public proceedings ; keepers of

(265) Above, ch. vi. § 2.

public records and parliamentary journals; registrars of births, deaths, and marriages; heralds and genealogists; authors of statistical accounts of population, revenue, and expenditure, trade, and the like; collectors of state-papers and public documents; and other compilers of the information which constitutes the skeleton and framework of history. Next to these come the writers of biographies, memoirs, and other narratives of a historical character, but too confined in their subject to deserve the name of history.⁽²⁶⁶⁾ Such, for instance, are the lives of great men by Plutarch and Cornelius Nepos;⁽²⁶⁷⁾ such the numerous French memoirs, and journals of military and naval operations, as a siege, a battle, or a campaign. Besides subsidiary works, avowedly intended as contributions to history, information convertible to the use of the historian may be gleaned from a vast variety of writings, though not designed for his service. Speeches, pamphlets, reviews, magazines, poems, plays, ballads, letters, and numerous other publications, contain incidental allusions to the events of the day, and therefore may furnish evidence upon matters of fact. The former documents which we enumerated are, for the most part, intended to serve as historical records. They are registered with a view of perpetuating the memory of the events. But official reports, coins, allusions in contemporary satires, and the like, though they furnish historical information, are not intended to serve as historical records. In this respect, they resemble the fossil remains in a stratum, which serve incidentally to determine its geological age.⁽²⁶⁸⁾

All these are materials, some of a more solid, others of a slighter consistency, out of which the historian can construct his edifice. In proportion as the professed historical accounts are

(266) On the difference between memoirs and history, see Ranke, *Zur Kritik Neuerer Geschichtschreiber*, p. 163.

(267) With respect to the difference between biography and history, and as to the former being more intended for the representation of moral character, see Plutarch, *Alexander*, c. i.

(268) On the distinction between intended and unintended historical monuments, see Rühs, *Propädeutik*, p. 184. It is illustrated by the difference between a medal and a coin.

meagre, he is driven to these secondary resources. This is especially the case with the modern writer of Greek or Roman history, who must often rely upon incidental notices, without straining them too far, or misconstruing their effect. Now, for making a proper use of these materials, so much discrimination is requisite; so much choice in selecting and rejecting facts; such freedom from prejudice and interest; so much judgment in appreciating men's actions, in estimating their professions, and conjecturing their motives; so much skill in co-ordinating and arranging facts; in distinguishing between causation and mere sequence or proximity, between juxtaposition and mutual dependence; and in determining the value of evidence,—that it is necessary to appropriate to the task the exclusive and undivided attention of one man.

Not only accuracy and memory, but a power of seizing the material and rejecting the immaterial facts, of winnowing away the chaff, and retaining the corn, is essential to the construction of a narrative embracing a complex series of events. Before such a narrative can be constructed, the historian must frame in his own mind a certain theory or hypothesis, by which he explains the concatenation of the events. By applying this theory, he determines which facts are material, and which immaterial. Even in a narrow field of history, the *res gestæ* are so numerous that the sequence of the material events becomes unintelligible if no discrimination is exercised, and if everything, however unimportant and incidental, is poured out, without any restraint upon the garrulity of the narrator. Facts must be passed through a succession of sieves of increasing fineness before they are ready for history. It is this process which every litigated question undergoes before it is submitted to a court; and it is mainly for conducting this process effectually and expeditiously, that the assistance of professional advisers is called in, who are able to extract from the mass of statements those matters which are pertinent to the question at issue, and lay the matter before the court in a condensed shape, ready for decision; whereas the parties themselves would, if left to their unaided

discretion, inundate the court with a flood of irrelevant information. A further process of abridgment and condensation is performed upon similar principles, when a case is reported after trial for legal purposes, and in order to show its value as a precedent.

§ 26 Whoever considers how much is involved in the process which we have just described, will perceive that political history deserves to be made a separate department from political speculation, and that it cannot be haudled in the same manner as the observations subsidiary to the physical sciences. When treated with the requisite skill, it is a *scientific art*;⁽²⁶⁹⁾ and a historical composition, framed with an adequate conception of the province of the historian, must be distinguished from a mere chronicle, containing only a dry catalogue of events arranged in chronological order, like the monkish mediæval histories, and framed on the same plan as entries in a tradesman's ledger or day-book.⁽²⁷⁰⁾ Historical composition, considered as an art rest-

(269) According to Vossius, (*Ars Historica*, c. ii.) *historice* is the art of history, as poetic of poetry. It is 'ars quæ historiam scribere docet.'—*Ib.* c. iv.

Upon history as an art, see W. v. Humboldt, *Ueber die Aufgabe des Geschichtschreibers, Gesammelte Werke*, vol. i. p. 5; and Ulrici, *ib.* p. 297. Eichhorn observes that, after the mediæval chronicles, history began again to be an art in Italy, in the fifteenth century, *Gesch. der Litt.* vol. ii. part i. p. 277.

As to the manner in which history ought to be composed, see Daunou, tom. vii. p. 303. The qualifications of a historian are set forth by Vossius, *ib.* c. 32; Daunou, *ib.* p. 234-65; Rotteck, *Allgemeine Geschichte*, Introd. § 13.

See Griffet, *Traité*, &c. c. 17, 'De la Difficulté d'écrire l'Histoire,' in which the qualifications of the historian are enumerated; viz. (1), accuracy; (2), impartiality; (3), industry; (4), critical judgment; (5), style.

Guizot, in judging Savigny's work *On the Roman Law in the Middle Ages*, lays it down, that the functions of the historian are threefold: (1), to determine the facts; (2), to trace their connexion; (3), to reproduce them in a living drama.—*Civil. en France*, leçon 11.

F. v. Raumer (*Geschichte des Hohenstaufen*, vol. vi. p. 655; ed. 2) remarks, that the historians of the period of the Hohenstaufen emperors have no pretension to historical art, and that they cannot be compared with such writers as Thucydides and Tacitus. He likewise describes the character of the monkish chronicles (*ib.* p. 656) as registers of passing events, many of which would otherwise have gone into oblivion. For the character of historiography in Europe between the fifth and eleventh centuries, see Eichhorn, *Gesch. der Litteratur*, vol. i. part 2, p. 831-8; and between the twelfth and fifteenth centuries, vol. ii. part 1, p. 267-78.

(270) See note E, at the end of the chapter.

ing upon scientific principles, aims at narrating and expounding the life of a nation. It is to a nation, what biography is to an individual. The historian is the biographer of the people at large.⁽²⁷¹⁾ His object is not to prove any definite conclusion, to establish any political theory, or to draw any general inference. He may comment on events, for the purpose of illustrating them; he may compare them with other analogous events, and subordinate them to general principles; but he does all this only with a view of explaining the true character of those particular events.⁽²⁷²⁾ This is the proper office of history; and this is a sufficient problem for one mind, however accomplished and however sagacious. Between history in its rude and unfashioned state, and history conceived as a work of art; between a mere chronicle or journal of contemporary events, and a well-digested narrative of the acts and fortunes of a nation, tracing the mutual dependence of events, expounding their true character, illustrating them with appropriate parallels, exhibiting the characters of the chief actors, allotting praise and blame with justice; dwelling on what is important, rejecting or touching slightly on what is unimportant or irrelevant,—there is as much difference as between a rude hut and a Grecian temple; or between the chaos of the ancient poets and the harmonious world, with its systematic arrangement of parts and symmetry of form.⁽²⁷³⁾ A finished

(271) Καθὼς περ ἀνθρώπου βίαι πλείονες, ἔστι καὶ δήμου πολιτεία βίος.—Plutarch de *Monarchia*, c. 1.

(272) Genuine history seeks no applications to the present time.—Daunou, tom. xiii. p. 22.

(273) 'C'est à son plan qu' Hérodote doit la simplicité, l'entraînement, et le charme de son style. Osons dire qu'il a créé aussi le style historique: il a saisi dans la plus juste mesure les teintes qu'il convenait d'emprunter à la poésie, en racontant les destinées humaines; et son ouvrage, le premier à lire pour étudier l'histoire, le serait aussi pour apprendre à l'écrire. J'entends ici par le style, non pas la simple diction, mais le mouvement et la couleur du discours, le caractère des pensées, des images, et des sentiments. Tacite a sans doute des idées plus profondes; Tite-Live un coloris plus vif; l'un et l'autre expriment avec plus d'énergie leurs réflexions morales et civiques. Mais Hérodote a su le premier raconter; et c'est un art difficile, dans lequel on peut douter qu'il ait été surpassé par les historiens.'—Daunou, tom. ix. p. 544. In order that history should be picturesque, facts must be observed with intelligence and skill.—*Id.* tom. xiii. p. 31.

work of history is, to a mere chronicle, what an epic or dramatic poem is to a ballad; or what a composition by Phidias or Raphael is to a rude imitation of nature by a primitive artist.⁽²⁷⁴⁾

It is on account of its artistic character, of its attributes, considered as a literary composition, independently of its mere annalistic contents, that history has been compared both with oratory and poetry, and that the historian has been supposed to possess certain qualities in common both with the orator and the poet. It is unnecessary for us to do more than indicate these analogies, which, it is to be observed, are merely analogies, and do not affect the independent nature of historical composition.⁽²⁷⁵⁾

One reason, therefore, why political history is treated by itself, and is kept apart from theory, is the impossibility of doing it justice unless it receives an undivided attention, and is made the writer's exclusive object—unless it is treated as a work of art, and made entire and independent of everything extraneous. But there is another reason against the union of political history and speculation, which is equally decisive. It rarely happens that a political theory can be safely deduced from the experience of a single nation and period. If, therefore, the historian were to found theories upon the facts of his own history exclusively, he would probably build on too narrow a basis. He would generalize upon an imperfect induction; he would confound accidental sequence with causation; he would erect empirical laws into laws of human nature. The only safe political theorist is he, who looks not merely to the history of a single country, but to all histories; and whose horizon is wide enough to neutralize the misleading effects of local and temporary peculiarities.

(274) 'Historia nec institui potest, nisi preparato otio, nec exiguo tempore absolvi.'—Cic. *de Leg.* i. 3.

(275) History, says Dionysius, should not be plain and unadorned, but should have something poetical.—*De Thuc. Jud.* c. 51. On the affinity of history with poetry, see Ulrici, *ib.* p. 301. Upon the affinity of history with oratory, Cic. *de Leg.* i. 2.

Some of the Roman critics seem to have doubted whether Lucan, notwithstanding the metrical form of his composition, could properly be called a poet, and whether he was not more properly an historian of the civil wars.—Martial, xiv. 194.

Besides, if the writer were mainly occupied with a long historical narrative, the theoretical inferences which it would suggest would be uncertain, miscellaneous, and ill-assorted. His attention, distracted with the labour of searching for facts, and of estimating the value of conflicting evidence, would be given only at intervals to the theoretical portions of his subject, and would be chiefly engrossed with matters irrelevant to the speculative discussions.

It follows, therefore, that, in the attempt to unite in one work political history and political theory, both are spoiled. It is observed by Lord Bacon, that by combining religion and natural philosophy, we make a heretical religion and a fantastic philosophy.⁽²⁷⁶⁾ In like manner, it may be said that, in attempting to combine political history and theory, we make inaccurate history and unsound theory.

It is essential to history that it should prove nothing, either special or general, beyond the facts which constitute its narrative.⁽²⁷⁷⁾ Like the observer in the physical sciences, the historian registers facts, in order that the truth may be known; but he seeks to found no conclusion upon them. He neither applies them to passing events, nor uses them as the materials of a political theory. History, it has been said, is philosophy teaching by example:⁽²⁷⁸⁾ the examples ought, however, to be genuine

(276) *Advancement of Learning*, vol. ii. p. 129. *De Augm. Scient.* vol. viii. p. 159.

(277) 'Scribitur ad narrandum, non ad probandum' (Quintil. x. 1, § 31). When Polybius calls his own history *ἀποδεικτική* (ii. 37, § 3), he means, not demonstrative history, but history which explains the causes and motives of events. Compare iv. 40, § 1, where he speaks of an *ἀποδεικτική διήγησις* in the same sense.

Crenzer (*Hist. Kunst der Griechen*, p. 232-3) lays it down that history has no didactic end, and inculcates no moral lesson. Wachsmuth (*Theorie der Geschichte*, p. 126-31) expounds similar views: also, Rotteck (*Allgemeine Geschichte*, introd. § 43). Compare Léon de Closset (*Essai sur l'Historiographie des Romains*): 'Quelle que soit l'utilité qui en rejaillisse pour la morale, la politique ou la religion, l'histoire ne doit pourtant se mettre au service ni de la religion, ni de la politique, ni de la philosophie. Elle constitue à elle seule une science distincte, qui a aussi son instruction à répandre, mais d'une façon qui lui est propre, par le récit.'—p. 185.

(278) See Dionys. (*Ars Rhet.* xi. 2), who expresses in these words the view of Thucydides.

facts, not strained to support a preconceived hypothesis, and the philosophy ought to proceed rather from the reader than from the writer.

But though political history and theory cannot be properly treated in concert, all political theory must be founded on the results of experience, and those results are to be found recorded in history. Without the aid of history, there can be no political theory worthy of the name. As to the manner in which historical facts are converted to the use of the philosopher, and made to serve as the basis of political theory, more will be said hereafter.⁽²⁷⁹⁾

(279) Below, ch. xv.

NOTES REFERRED TO IN CHAPTER VII.

NOTE A.—(p. 214.)

‘ On peut réduire toutes les preuves de l’histoire à deux classes ; à celle des témoignages contemporains, et à celle des traditions : j’appelle témoignages contemporains les actes, les titres, les pièces écrites du temps des évènements, et les ouvrages des historiens qui ont vu les faits qu’ils rapportent, ou qui ont travaillé sur les mémoires de ceux qui en avoient été les témoins. Par traditions historiques, j’entends ces opinions populaires, en conséquence desquelles toute une nation est persuadée de la vérité d’un fait, sans en avoir d’autres preuves que sa persuasion même, et celle des générations précédentes, et sans que cette persuasion soit fondée sur aucun témoignage contemporain subsistant séparément de la tradition même. Pour que ces traditions aient une autorité suffisante, on demande que les faits dont elles déposent aient été publics et éclatans, qu’elles soient anciennes, qu’elles remontent jusqu’au temps des évènements même, et que du moins on ne puisse en montrer le commencement, qu’elles soient constantes et générales, qu’elles s’accordent avec les témoignages positifs de l’histoire ; qu’au moins elles n’y soient opposées, qu’elles ne soient point détruites par d’autres traditions mieux prouvées, ou plus anciennes, et par des coutumes et des pratiques religieuses ou politiques établies en conséquence. — Freret, *Sur l’Etude des Anciennes Histoires, et sur le Degré de Certitude de leurs Preuves ; Œuvres complètes*, tom. i. p. 71-3.

‘ Les histoires traditionnelles ne sont jamais susceptibles de chronologie ; un peuple qui n’a point d’annales écrites, point d’inscriptions publiques, point de monuments, ne conçoit que bien grossièrement les grandes quantités ; il y a une limite au-delà de laquelle les supputations dépassent la portée de son intelligence ; il rapetisse quelquefois et plus souvent il exagère ce qu’il n’est point en état de calculer. Nous ne pouvons donc faire aucun fond sur les nombres d’années qui n’ont été consignés dans les livres d’histoire qu’après avoir passé par des narrations orales durant plusieurs siècles. Il est toujours probable que ces nombres sont altérés ; et l’on ne manque presque jamais d’en acquérir la preuve, quand la vérification est possible. Ainsi la chronologie positive ne doit point avoir d’autres sources que les monuments contemporains des faits et les relations originales ; encore faut-il que l’authenticité de ces témoignages soit incontestable, qu’ils aient un sens parfaitement clair, et que leur fidélité soit à l’abri de tout soupçon. — Daunou, *ib.* tom. iii. p. 13 ; compare tom. ix. p. 547.

‘ Toute tradition sur la haute antiquité est aussi nulle chez les Orientaux que chez les Européens. Parmi eux, comme parmi nous, les faits de cent ans, quand ils ne sont pas écrits, sont altérés, dénaturés, oubliés : attendo d’eux des éclaircissements sur ce qui s’est passé au temps de David ou d’Alexandre, c’est comme si on demandait aux paysans de Flandre des nouvelles de Clovis ou de Charlemagne. — Volney, *Voyage en Egypte et en Syrie*, tom. ii. p. 124. Volney also dwells on the nullity of oral tradition in his work on America : ‘ The savages of America (he says), afford an additional example in support of my opinion ; for all the wit-

nesses I have had an opportunity of consulting, and whom I have so frequently quoted, agreed in telling me that there does not exist among them any regular remembrance, or accurate tradition, of a fact that happened a hundred years ago.—p. 443, Engl. transl. On the character of oral tradition, see Ruhs, *Propädeutik*, p. 183; Wachsmuth, *Theorie der Geschichte*, p. 91; and *Alt. Gesch. des Röm. Staats*, p. 15; Volney, *Leçons d'Histoire, Œuvres*, p. 566-7. Oral tradition, even when it is founded on fact, is indistinct as to the time and series of events, and even as to places and persons: 'Summam rerum unciat fama, uou ordiueu,' says Pliny, *Epist.* iv. 11, § 15. 'Tradition (as M. de Pouilly observes) never informs us of circumstances any more than of dates.'—Hooke, *Dissertation on the first 500 years of Rome*, p. xlviii. Concerning the round numbers of epic legend, see Mure, *Hist. of the Lit. of Greece*, vol. ii. p. 138. 'The conversion of a story into its *opposite*, is a characteristic of legendary history,' according to Niebuhr, *Hist. of Rome*, vol. i. p. 40. On the arbitrary changes in narrative made by oral tradition, see Niebuhr, *ib.* vol. ii. p. 6. It should be observed, that the computation of time by generations, and by the succession of kings (such as we find placed at the head of Assyrian, Egyptian, Greek, and Roman history), is due to learned chronologers, who fabricated these lists after the oral legends had been reduced to writing.

The importance of contemporary registration is recognised by Livy: 'Nec quisquam æqualis temporibus illis scriptor extat quo satis certo auctore stetur,' viii. 40. 'Sicut proditum a proximis memoriæ temporum illorum scriptoribus.'—xxix. 14.

NOTE B.—(p. 245.)

GRIFFET, in his *Traité des Différentes Sortes de Preuves qui servent à établir la Vérité de l'Histoire*, has the following remarks on the conjectural motives applied by historians:—Ch. 3. 'Des Historiens qui attribuent les Faits et les Actions dont ils parlent à des Causes ou à des Motifs dont ils n'ont aucune Connaissance.'—'Plusieurs historiens, non contents de vouloir pénétrer dans l'intérieur du cabinet des princes, qui leur est inconnu, portent la témérité jusqu'à vouloir découvrir ce qui se passe dans l'intérieur de leur âme; ils se forment d'abord une idée de leur caractère, à laquelle ils rapportent toutes leurs actions et tous leurs desseins, sans faire réflexion que les hommes ne se soutiennent pas toujours dans leur conduite; que s'il leur est ordinaire de suivre leur goût naturel, et de chercher leur intérêt, il y a une infinité d'occasions où ils démentent leurs propres inclinations; qu'il n'est pas toujours facile de démêler l'espèce d'intérêt qui les fait agir; qu'il leur arrive quelquefois de sacrifier un intérêt actuel que l'on connoît, à un intérêt éloigné que l'on ne connoît pas, parcequ'il n'existe encore qu'en idée et en espérance; qu'enfin le cœur de l'homme est une espèce d'énigme qui ne se devine point.'—p. 57.

'Lorsque Tacite nous rapporte les discours que les empereurs faisoient dans le sénat, et les diverses opinions des sénateurs, on peut l'en croire: c'étoient des faits connus et publics: mais quand il nous dit, avec la même assurance, qu'Auguste ne choisit Tibère pour son successeur, que parcequ'il le connoissoit tous les défauts de son caractère, et qu'il espéra que la comparaison que l'on en feroit avec lui, tourneroit à l'avantage de sa mémoire, il ne mérite pas, à beaucoup près, la même croyance. D'où a-t-il su cette particularité? A qui Auguste avoit-il avoué qu'il s'étoit conduit par ce motif dans une affaire où il s'agissoit de la destinée de l'empire Romain, ou, pour mieux dire, de celle de l'univers? Auguste, qui l'avoit gouverné avec tant de douceur et de sagesse, étoit-il capable de vouloir rendre les Romains malheureux, pour s'assurer de leurs regrets, ou

plutôt pour les augmenter? Tibère avait certainement des qualités qui le rendoient propre au gouvernement; il ne manquait ni de génie, ni de valeur, ni de capacité dans l'art militaire; il en avait donné des preuves pendant la vie d'Auguste, qui pouvoient justifier son choix. Était-il aisé de prévoir qu'il en abuseroit, et qu'il se rendroit odieux par ses cruautés; et méprisable sur la fin de ses jours, par l'excès de ses débauches, et par son humeur sombre et farouche? Il est bien plus naturel de penser que ses talents reconnus, joints aux sollicitations de l'impératrice Livie, déterminèrent Auguste à le choisir pour son successeur. Mais ce qui est simple et naturel n'étoit pas du goût de Tacite, qui, par le tour de son esprit, cherche à raffiner sur tout, et qui se plaît à répandre partout des réflexions qui ne sont pas toujours aussi vraies, qu'elles sont fines et subtiles. Qui nous répondra de la vérité de celle qu'il a faite sur le choix d'Auguste? Tout nous porte, au contraire, à la regarder comme une pensée fautive et satirique, plus propre à flatter la malignité des lecteurs qu'à les éclairer.—p. 60-1. Griffet comments in a similar manner on a passage in the *Memoirs of De Retz*, who applies this remark of Tacitus to the choice of Mazarin by Richelieu as his successor.—See his *Mémoires*, liv. ii. tom. i. p. 186; ed. Petitot.

'Tacite nous donne presque partout des portraits satiriques; loin de dissimuler les défauts, il se plaît à les exagérer. Il est vrai qu'il écrit l'histoire d'un siècle corrompu, où les vertus étaient rares; mais on voit qu'il ne cherchoit pas à les connoître, et qu'il ne voyoit volontiers que le mal, sur lequel il insiste toujours par préférence; et comme il avait l'imagination forte, et le pinceau vigoureux, il est à craindre qu'il ne nous représente les hommes de son temps plus méchants encore et plus scélérats qu'ils n'étoient. Vous trouverez très peu d'historiens qui aient su garder dans leurs portraits ce juste milieu, qui s'éloigne également du ton de la flatterie et de celui de la satire.'—p. 374.

Compare the forcible words of Tacitus himself:—'Sed ambitionem scriptoris facile adverseris; obtruncatio et livor pronis auribus accipiuntur: quippe adulationi fœdum crimen servitutis, malignitati falsa species libertatis inest.'—*Hist.* i. 1.

It should be observed, however, with reference to the quotation of De Retz, and the criticism of Griffet, that Tacitus does not give the supposition in question as his own; he neither assents to nor dissents from it, but merely enumerates it among the popular remarks made upon Augustus at his death, and upon the accession of Tiberius.—*Ann.* i. 10. Tacitus is, indeed, very copious in relating the unfavourable comments upon the conduct and character of Augustus. The remark of Lipsius is:—'Uberius hanc partem exsequitur; an quia ipso in eâ? Non ambigo.' Suetonius (*Tib.* c. 21) mentions the same belief as a popular rumour; but he discredits and rejects it on good grounds. Dio Cassius (*lvi.* 45) mentions the same idea as a suspicion, but without adopting it as true.

Montaigne makes a similar remark on the proneness of Guicciardini to refer all actions to bad motives:—'J'ai aussi remarqué ceci, que de tant d'ames et effets qu'il juge, de tant de mouvements et conseils, il n'en rapporte jamais un seul à la vertu, religion, et conscience, comme si ces parties là étoient du tout éteintes au monde, et de toutes les actions, pour belles par apparence qu'elles soient d'elles mêmes, il en rejette la cause à quelque occasion vicieuse ou à quelque profit. Il est impossible d'imaginer que parmi cet infini nombre d'actions de quoi il juge, il n'y en ait eu quelqu'une produite par la voie de la raison; nulle corruption peut avoir saisi les hommes si universellement, que quelqu'un n'échappe de la contagion. Cela me fait craindre qu'il y ait un peu du vice de son goût, et peut-être avvenu qu'il ait estimé d'autrui selon soi.'—*Essais*, liv. ii. ch. 10. Plutarch, likewise (in his *Treatise de Herod. Malign.* c. 5, 6),

condemns the practice of assigning actions to bad motives on doubtful or obscure evidence, citing some examples.

The censorious habits of Theopompus are remarked upon by the ancients, as diminishing the value of his unfavourable testimony.—See Plutarch, *Lysand.* 30; *Fragm. Hist. Gr.* vol. i. p. lxxv.; and concerning Timeus, *ib.* p. lv.

NOTE C.—(p. 292.)

FRERET (*Réflexions sur les Prodiges rapportés dans les Anciens*) divides the prodigies of the ancients into two classes; viz. those which were violations of the order of nature, and those which were natural but rare phenomena. 'Les prodiges de la seconde classe sont des effets purement naturels, mais qui, arrivant moins fréquemment et paroissant contraires au cours ordinaire de la nature, ont été attribués à une cause surnaturelle par la superstition des hommes effrayés à la vue de ces objets inconnus.'—*Œuvres Complètes*, tom. i. p. 160.

When a strong belief in the probability of supernatural events exists, and men's minds are disturbed by panic fears, or excited by great expectations, contemporary registration is no security against the introduction of fabulous portents into history. The Roman prodigies appear to have been more carefully noted down in the annals of the year than any other class of events; such events as the speaking of cattle and sheep rest upon contemporary testimony, vouched by public authority. See, for example, the following passages of Livy:—'Romæ aut circa urbem multa eâ hieme prodigia facta: ant (quod evenire solet, motis semel in religionem animis) multa nunciata et temere credita sunt.'—xxi. 62.

'Prodigia eo anno [v.c. 538] multa nunciata sunt; qnm, quo magis credebant simplices ac religiosi homines, eo plura nunciabantur.'—*ib.* xxiv. 10.

'Et alia ludibria oculorum auriumque credita pro veris: navium longarum species in flumine Tarracina, quæ nullæ erant, visæ; et in Jovis Veiilini templo, quod in Companso agro est, arma concrepuisse,' &c.—*ib.* xxiv. 44.

In later times, as we learn from Livy, prodigies were no longer thought worthy of public attention: 'Non enim nescius, ab eâdem negligentia quid nihil Deos portendere vulgo nunc credant, neque nunciari admodum ulla prodigia in publicum, neque in annales referri. Ceterum et mihi vetustas res scribenti, nescio quo pacto antiquus sit animus; et quedam religio tenet, quæ illi prudentissimi viri publice suscipienda censuerint, ea prodigiis haberi quæ in meos annales referam.'—xliii. 13. Livy thus marks the cessation of the practice of registering prodigies in his own time, though he disapproves of the scepticism of his contemporaries, which rejects the belief in portents; and from his expression in xxvii. 11 (v.c. 209), 'satis constabat bovem locutum,' it would seem that the canon of belief with respect to an order of nature among educated Romans was not very fixed.—So Virg. (*Georg.* i. 478), 'pecudesque locutæ, infandum.' Compare Lucan, i. 522-672.

The marvels of the early centuries were re-introduced into history in the sixth century (Eichhorn, *Gesch. der Litt.* vol. i. part ii. p. 833); and the mediæval legends of saints and martyrs, which were written at, or soon after, the times to which they relate, teem with every variety of marvel. The resurrection of Montezuma's sister four days after her burial was believed in by Spanish writers; and legal attestations of the truth of this event were furnished to the court of Rome. See Prescott's *Hist. of the Conquest of Mexico*, vol. i. p. 285. Other catholic miracles are also attested by the contemporary historians of the conquests of Mexico and Peru. On prodigies and marvels in history, see Machiavel (*Disc.* i. 56); Griffet (*Traité des Preuves qui servent à établir la Vérité de l'Histoire*, c. ii.)

The credulity of the Orientals, with respect to the contemporary occurrence of prodigies, is remarked by Volney :—' Ce penchant à l'admiration, cette facilité de croire aux faits et aux récits les plus extraordinaires, est un attribut remarquable de l'esprit des Orientaux. Ils admettent sans répugner, sans douter, tout ce que l'on veut leur conter de plus surprenant. A les entendre, il se passe encore aujourd'hui dans le monde autant de prodiges qu'an temps des génies et des afrites ; la raison en est que, ne connaissant point le cours ordinaire des faits moraux et physiques, ils ne savent où assigner les bornes du probable et de l'impossible.'—*Voyage en Egypte et en Syrie*, tom. ii. p. 321.

NOTE D.—(p. 287.)

THE following observations upon discrepancies of historical evidence are made by Paley :—' I know not a more rash or unphilosophical conduct of the understanding than to reject the substance of a story, by reason of some diversity in the circumstances with which it is related. The usual character of human testimony is substantial truth under circumstantial variety. This is what the daily experience of courts of justice teaches. When accounts of a transaction come from the mouths of different witnesses, it is seldom that it is not possible to pick out apparent or real inconsistencies between them. These inconsistencies are studiously displayed by an adverse pleader, but oftentimes with little impression upon the minds of the judges. On the contrary, a close and minute agreement induces the suspicion of confederacy and fraud. When written histories touch upon the same scenes of action, the comparison almost always affords ground for a like reflection. Numerous, and sometimes important, variations present themselves ; not seldom, also, absolute and final contradictions ; yet neither one nor the other are deemed sufficient to shake the credibility of the main fact. The embassy of the Jews to deprecate the execution of Claudian's order to place his statue in their temple, Philo places in harvest ; Josephus in seed-time—both contemporary writers. No reader is led by this inconsistency to doubt whether such an embassy was sent, or whether such an order was given. Our own history supplies examples of the same kind. In the account of the Marquis of Argyle's death, in the reign of Charles II., we have a very remarkable contradiction. Lord Clarendon relates that he was condemned to be hanged, which was performed the same day ; on the contrary, Burnet, Woodrow, Heath, Echard, concur in stating that he was beheaded ; and that he was condemned upon the Saturday, and executed upon the Monday. Was any reader of English history ever sceptic enough to raise from hence a question, whether the Marquis of Argyle was executed or not ?'—*Evid. of Christ.* part iii. ch. i.

The applicability and extent of the canon of evidence here laid down by Paley will receive some light from an examination of the historical examples which he adduces. In the first of these, by ' the execution of Claudian's order,' he appears to mean the order of the Emperor Claudius. The order referred to is described by Josephus, *Ant.* xviii. 8 ; *Bell. Jud.* ii. 10 ; and by Philo, *Legat. ad Caium*, c. 31, *sq.* It was, however, issued, not by Claudius, but by his predecessor Caligula, and its execution was prevented by the accession of Claudius. No embassy was sent from Judæa to Caligula concerning this order ; but only a despatch from Petronius, the governor. The narratives of the transaction by Josephus and Philo differ, indeed, as Dr. Milman has remarked (*Hist. of Jews*, b. xii. vol. ii. p. 184), ' in many most important particulars.' Among these are the time of the year, and the ground of the application for the suspension of the order. According to Philo, Petronius justified his suspension of the order by alleging that, if it was executed, the people would not collect the harvest

(c. 33); whereas, according to Josephus, the reason which he assigned was, that if he had enforced the order, the ground would have remained untilled (*Ant.* xviii. 8, 3; *B. J.* ii. 10, 5). For the chronological relations of these events, see Clinton, *Fast. Rom.* A.D. 40. It should be observed, that Philo and Josephus were not contemporary historians of this event, in the same sense of the word, for Philo was one of the Alexandrian deputation to Caligula, whereas Josephus was only two years old at the time.

Paley further alleges what he calls 'a very remarkable contradiction' in the accounts of the Marquis of Argyle's death, in the year 1661. All the Scotch authorities agree in declaring that the Marquis of Argyle was executed by decapitation, and that his sentence was carried into effect forty-eight hours after his trial. Full details respecting his execution have been preserved.—See Laing's *Hist. of Scotland*, vol. iv. p. 14-7, ed. 1819; Howell's *State Trials*, vol. v. p. 1370. Lord Clarendon, however, in his *Life* (a work written for the information of his children), says that 'he was condemned to be hanged upon a gallows of an unusual height, and in or near the place where he had caused the Marquis of Montrose to be formerly executed, all which was performed the same day' (vol. ii. p. 403, ed. 8vo, 1761). Burnet says: 'It was designed he should be hanged, as the Marquis of Montrose had been; but it was carried that he should be beheaded, and that his head should be set up where Lord Montrose's had been set.'—*Hist. of his own Time*, vol. i. p. 125; fol. 1724. Clarendon, writing about a fact which occurred at Edinburgh, and some years after the time, confounded the *design* with the *act*; and, moreover, erred as to the sentence having been executed immediately; whereas, an interval of forty-eight hours, from Saturday to Monday, was allowed. This hardly deserves to be called 'a very remarkable contradiction.' It is clear that Clarendon made a mistake; and, under the circumstances, the mistake was not unnatural. If Lord Clarendon had, in his history (a work written for publication), differed from other well-informed witnesses as to the material circumstances of a public event which took place in London, the expression might have been applicable. Paley refers, on this point, to the *Biographia Britannica*; but the first edition of this work was anterior to the publication of Clarendon's *Life*, and in Kippis's edition (art. 'Campbell, Marquis of Argyle'), the passage from the life is quoted without any remark on the discrepancy in question.

NOTE E.—(p. 312.)

THE public registers, in which the early Oriental history was recorded, were of the meagre and dry character described in the text. See Josephus *cont. Apion.* i. § 4-7; Voss. *Ars Hist.* c. 32; Winer, *Bibl. R. Lenz.* art. 'Geschichte und Stammgeschlechts-register.' Ctesias wrote his history from royal chronicles, in which the Persians registered events, according to their law (*Diod.* ii. 32; Ctesias, ed. Baehr. p. 17); with respect to the register of the Persian king, kept by the royal scribes, see Heeren, *Ideen*, i. 1. p. 134-7, ed. 4; and as to the βασιλικοὶ ἐφημερίδες concerning Alexander—Arrisn, vii. 24-5. Respecting the early Hebrew chronicles, registered by contemporary scribes, see Newman's *History of the Hebrew Monarchy*, p. 118. The brevity and jejune-ness of the Roman annals are described by Cic. *De Orat.* ii. 12; *De Leg.* i. 2. Compare Ulrici, *ib.* p. 87.

Speaking of the difference between the jejune style of a mere annalist and the fulness of a historian, Scmp. Asellio says, in a fragment preserved in Gellius (*N. A.* v. 18, § 8): 'Nobis non modo satis esse video, quod factum esset, id pronuciare, sed etiam quo consilio quaque ratione gesta essent demonstrare.' On the distinction between annals and history, see

a paper by Niebuhr, in his *Kleine Schriften*, part ii. and in the *Phil. Mus.* vol. ii. p. 661.

The following passage describes the process of compiling a monkish chronicle:—'Statutum convenienter in Angliâ, quod unumquodque monasterium a regibus fundatum haberet de ipso loco suum certum scribam vel scriptorem, quo omnia notabilia tempore regis, saltem in regno, vel e vicinis contingentia, secundum quod veritas facti se haberet, cum datâ, annotarentur: ad proximum generale concilium, post obitum regis, omnes illi chronographi convenirent, et sua vere dicta sive scripta, in medium producerent, et delectis a concilio sagacioribus et in talibus peritis et expertis, scripta examinarent, et diligenti habitâ collatione de congestis summarium extraherent, et chronicam compingerent, ac in cœnobicis archivis librariorum, pro authenticis chronicis, quibus fides daretur, scripta reponerent, ne temporum labilitate memorie gestorum in regno deperirent.' *Scoti Chronicon*, l. xvi. c. 39.

Speaking of the period of the Heptarchy, Hume says:—'The monks, who were the only annalists during those ages, lived remote from public affairs, considered the public transactions as entirely subordinate to the ecclesiastical, and, besides partaking of the ignorance and barbarity which were then universal, were strongly infected with credulity, with the love of wonder, and with a propensity to imposture: vices almost inseparable from their profession and manner of life. The history of that period abounds in names, but is extremely barren of events; or the events are related so much without circumstances and causes, that the most profound or most eloquent writer must despair of rendering them either instructive or entertaining to the reader.'—*Hist. of Engl.* c. 1.

Tiraboschi (*Storia della Letteratura Italiana*, tom. iv. lib. ii. c. 6) characterizes the Italian chronicles of the thirteenth and fourteenth centuries by saying, that they have little value either in a scientific or literary point of view; that their facts are unworthy of credit, and that their style is devoid of elegance.

On the character of the Spanish chronicles, Ticknor, *Hist. of Span. Lit.* vol. i. period i. ch. 8-10. The annalistic method of Guicciardini and of Zurita is pointed out by Ranke (*Zur Kritik neuerer Geschichtschreiber*, p. 6, 122), who remarks that Guicciardini's work is a history, not a mere collection of notices.—*Ib.* p. 7. Specimens of the mediæval chroniclers may be seen in F. von Raumer's *Handbuch merkwürdiger Stellen aus den Lateinischen Geschichtschreibern des Mittelalters* (Breslau, 1813).

The ancient Mexican annals were preserved without alphabetical writing: 'Clumsy as it was, the Aztec picture-writing seems to have been adequate to the demands of the nation, in their imperfect state of civilization. By means of it were recorded all their laws, and even their regulations for domestic economy; their tribute-rolls, specifying the imposts of the various towns; their mythology, calendars, and rituals; their political annals, carried back to a period long before the foundation of the city. They digested a complete system of chronology, and could specify with accuracy the dates of the most important events in their history, the year being inscribed on the margin, against the particular circumstance recorded. It is true, history thus executed must necessarily be vague and fragmentary, only a few leading incidents could be presented. But in this it did not differ much from the monkish chronicles of the dark ages, which often dispose of years in a few brief sentences—quite long enough for the annals of barbarians.'—Prescott's *History of the Conquest of Mexico*, b. i. c. 4 (vol. i. p. 88; 8vo).

CHAPTER VIII.

ON CAUSATION IN POLITICS.

§ 1 **I**N the preceding chapters, we have attempted to explain how individual facts are observed in politics, and what are the conditions necessary for their due observation. We have likewise shown that the collection and registration of political facts, in a connected series, is a work of such difficulty, as to require the undivided attention of one person; and that this is the function of the historian. In whatever form, however, political events may be recorded, the observation of them is made with a view of preserving them as materials to be employed in an ulterior process. This process consists in determining their causation.

Accordingly, our attention will be devoted to an examination of the methods by which the causation of political events is ascertained. In conducting this inquiry, we shall be guided by the principles established by approved writers on the general subject of causation.⁽¹⁾ But as there are some parts of the general subject which require a peculiar consideration in politics, it will be convenient to prefix such an introductory explanation as will serve to illustrate the problem which is proposed for our solution.

‘Every fact or phenomenon which has a beginning (says Mr. Mill) invariably arises when some certain combination of positive facts exists, provided certain other positive facts do not exist.’⁽²⁾ Now, in speaking of the antecedents which are jointly necessary to the sequence of a given effect, we usually select one, which we denominate the *cause*, and to all the others we give the name

(1) See Brown's *Essay on Cause and Effect*; Herschel, *Discourse on the Study of Nat. Phil.* ch. vi.; Whewell, *Phil. of the Ind. Sciences*, b. iii. ch. 2-4; Mill, *Logic*, b. iii. ch. 5.

(2) *Logic*, vol. i. p. 403.

of *conditions*. The latter are sometimes positive, though, as we think, subordinate in importance to the antecedent which we dignify by the appellation of cause: frequently, however, they are negative, and consist merely in the absence of certain circumstances, which, if present, would prevent the cause from producing the effect.

Thus, we say that the impression made upon a coin, or on wax, is the *effect* of the die, or of the seal; that the die or the seal is the *cause* of the impression. The pressure upon the two substances, and the fluidity in the case of the wax, though necessary accompaniments of the other antecedent, would be considered merely *conditions* for the production of the effect. Again, we say that the conflagration of a house was the effect of its having been set on fire by an incendiary, the combustibility of its materials being regarded only as a condition.

If all the *conditions* of animal life could be enumerated, they would, taken together, constitute the *cause* of life, properly so called. Some of the conditions of life are manifest, such as nutriment, certain degrees of temperature, access to atmospheric air. Beyond these, however, there must be a certain state of the vital organs, the determination of which is the chief business of physiological science. There is a certain normal state of every organ, which constitutes health, and a certain deviation from this state, in various directions, which constitutes disease. When the disease reaches a certain point, one of the conditions necessary to life, one of the constituent parts of its compound cause, ceases to exist, and death accordingly takes place.

§ 2 Whenever, among several conditions jointly necessary for the production of a given effect, one arises suddenly and casually, while the others are permanent and habitual (as in the case of an incendiary fire, above alluded to); or where one appears, for any other reason, to be more prominent and important than the rest, we distinguish it by the appellation of *cause*. Thus, in speaking of the qualifications which constitute a man's fitness for any business or art, we omit all those which, however necessary, are not peculiar to it, or are of common occurrence. Nobody

in speaking of the qualities which enabled a great general to achieve a series of important victories, would mention his possession of the powers of sight and locomotion, without which, however, his success would have been impossible. The possession of tools by an artizan, or of colours and canvass by a painter, is not reckoned among the circumstances which constitute a man an artizan or a painter, though it is a necessary condition for the exercise of his art. So the existence of two persons, capable of certain rights and duties, is a condition necessary for the constitution of such a legal status as that of husband and wife, buyer and seller, master and servant, but it is not considered to be its cause.

Everything, in its permanent and natural state, has a potential capacity of producing certain effects, if some additional influence be superadded and combined with it. A phenomenon then follows, which is the combined result of the permanent properties of the object in question, and of the extraordinary influence brought to bear upon them. Neither would be sufficient to produce the effect without the other; but the former would be called *conditions*, and the latter the *cause*.

In the instances which have been adduced, the conditions, as well as the cause, are positive, and are placed on a subordinate line, as being of less importance in reference to the individual case. In other instances the conditions are merely negative, and consist in the absence of circumstances, which, if they were present, would hinder the operation of the cause. Thus, in all cases of motion, light, or electricity, the production of the effect may be impeded by the interposition of certain obstacles. A body in motion may be stopped by friction or resistance, the propagation of light may be interrupted by an opaque body, the passage of the electric fluid may be arrested by a non-conducting medium, and the like. Heat, again, and sound, are transmitted by some substances less fully than by others. This remark holds good with respect to causation in the moral, as well as in the physical world. There is, in the whole circle of human action, no combination of circumstances which

acts with irresistible force, and which is not dependent for its effect upon the absence of certain other assignable events.

In the experimental sciences (as has been already explained), the antecedents of a given effect can be isolated, and all obstructing influences are thus excluded. The chief advantage of experiment is to secure the negative conditions necessary for the action of the cause, and for the production of its consequent.

Whenever the existence or safety of anything depends upon a *sum* or *system* of contrivances adapted to a common end—which, together, are conditions necessary for its preservation—then the destruction, disturbance, or removal of one of these contrivances—the failure of any part of this composite system of safeguards—is considered as the *cause* of the ruin of the whole. For example, if the action of any one of the functions or organs necessary to human life is stopped, life is extinguished, and the circumstance producing that effect is said to be the cause of death. So, if a ship springs a leak and sinks, or if an army is surprised through the absence of a sentinel from his post—the springing of the leak, and the absence of the sentinel, is said to be the cause of the loss of the ship and the surprise of the army. The language by which such an effect is commonly ascribed to a merely negative cause is elliptical. Whenever the preservation of anything depends on a plurality of conditions, the absence of any one of them involves its destruction; but this consequence only follows where the presence of the condition (or of some equivalent) was necessary.

§ 3 When conditions are spoken of, in reference to a question of causation, certain antecedents necessary for the sequence of a given effect are understood. We mean that, without the existence of those antecedents, the consequent could not, in the order of nature, ever happen. Besides these—which may be called natural or causal conditions—there is, in the moral sciences, a class of conditions dependent upon convention, or the will of man, and which may be called *arbitrary* conditions.⁽³⁾

(3) See Puffendorf, iii. 8, § 2, for a definition of this species of condition.
* A condition (according to Savigny) is the addition of a declaration of

For example, the stipulations of a treaty agreed upon between two states may be made to depend upon the fulfilment of certain conditions by one or both of the parties; such as the evacuation of a post, the surrender of a colony, the payment of a sum of money as indemnity, and the like. Similar conditions may be inserted in deeds made between living parties; and gifts, by will or otherwise, may likewise be conditional; *e.g.* a person may devise to another an estate, upon condition that he assumes a certain name. Arbitrary, conventional, or legal conditions of this sort may be either precedent or subsequent; that is to say, the act which is required to be done may be intended either to precede or to follow the execution of the terms of the instrument. Necessary conditions, however, must be either antecedent or simultaneous: they never follow the production of the effect.

Conventional conditions resemble causal conditions in this—that although they have no connexion in the nature of things, they are, by human arrangement, made necessary in the individual case—and therefore, so far, fall into the same class. There cannot be animal life without food, but a man can be the devisee of an estate without being required to assume a certain name. If, however, the testator thinks fit to impose this condition, and it is recognised by law, the condition becomes as necessary for the acquisition of the estate, as food is necessary for the sustenance of animal life.

Conventional conditions have this further resemblance to causal conditions, that all of them must be observed, and if one of them is broken the contract is violated. Thus, if the lessee of a house undertakes to pay a certain rent at certain times, to

intention, by which the existence of a legal relation is made to depend upon a future uncertain event.—*System des heut. Röm. Rechts*, vol. iii. p. 121 (b. 2, § 116). A condition of the nature here described was in Latin called *lex*. Thus Virgil, speaking of the condition which the infernal deities imposed upon the restoration of Eurydice to Orpheus, says—

‘Namque hanc dederat Proserpina legem.’—*Georg.* iv. 487.

So Tacitus, in reference to the donation of Augustus to Hortalus—‘Dedit tibi, Hortale, D. Augustus pecuniam, sed non compellatus, nec eâ lege ut semper daretur.’—*Ann.* ii. 38. See other instances of this use of the word in Ovid, *Met.* iv. 703; vii. 8; viii. 101; x. 50, 572.

do certain repairs, and to abstain from certain trades, the non-fulfilment of one of these conditions would be as much an infraction of the contract of lease, as if none were performed. In like manner, in causation, if several circumstances are necessary to the preservation of anything, or to its maintenance in its existing state, and one of them fails or ceases, the effect is destroyed, not less than if all were wanting.

§ 4 It appears, therefore, that in speaking of anything as the effect of a given cause, or the cause of a given effect, our language is in general elliptical, and that we suppress the mention of *other* concomitant antecedents, which are necessary conditions to the production of the effect, and which, in strictness, combined with the more prominent antecedent, constitute the cause. More especially is this our habit with respect to negative conditions: in looking back upon past causation, we almost invariably exclude from our view all reference to those circumstances, which, if present, would have hindered the production of the effect, but which were *not* present in the particular case under consideration.

In reasoning upon physical facts, this abbreviated mode of stating a problem, by which it is reduced to the smallest number of data, is convenient, and rarely leads to error. When we say that the sun is the cause of daylight, we understand that if an opaque body were interposed between the sun and the earth, or if the medium between the sun and the earth were not, during the entire interval, a conductor of light, the sun would cease to be the cause of daylight. In like manner, when we say that a locomotive engine upon a railway is the cause of the motion of the train, we are aware that many other conditions, such as the passage of the wheels over level iron rails, the absence of impediments upon the road, &c., are necessary conditions to the effect. In order to form a full and correct idea of the simplest case of causation, numerous antecedents, both positive and negative, must be taken into account; and the sum of these, so far as they are essential to the production of the effect, constitutes the true cause. But where many of these antecedents are merely

negative, and are common to nearly all problems in the same subject-matter (such, for example, in dynamical problems, as friction, or the interposition of a solid body—or, in optical problems, the interposition of an opaque body), they may in general be safely omitted, without exposing the inquirer or learner to any chance of error. Their enumeration would savour of pedantic precision, and would fatigue the attention without any equivalent advantage.

For these reasons, the statement of physical causes and effects may, in general, be usefully simplified, by eliminating many essential conditions, and by confining the attention to one leading antecedent, which may alone be designated the cause.

In the investigation of physical causes, the philosopher may, indeed, sometimes deem it right to construct the entire cause, by the complete enumeration of the conditions necessary to the effect. Such a process may enable him to institute an exhaustive analysis of his subject. But it is not necessary that all these details of his mental laboratory should be laid before the reader, more than it is necessary for the logician to state, in formal syllogisms, all the arguments which he may have drawn out at length in order to assist his own judgment.

If, however, it be true that the relation of cause and effect is never a simple problem in physics; if, in the external world, it can never be said that an effect follows invariably from a single antecedent, this proposition applies with still greater force to political science. In politics, the number of antecedents necessary for the production of a given effect is always very large; and as the problems are more complex than in the physical world, the danger of error, arising from an incautious attempt at undue simplification, is perpetual.

§ 5 In order to appreciate this difference more clearly, it will be convenient to take the two main classes of political problems separately, and to compare them with the corresponding classes of problems in physics.

These two classes of problems are, first, to determine the cause of a given effect; and, secondly, to determine the effects of

a given cause. Both of these arise with respect to the past. In attempting to decipher the results of our experience, we may either seek to assign the circumstances which have produced a certain event; or we may seek to trace the consequences to which a certain event has given rise. This, which may be called the *historical* problem, is the simplest problem of causation included within the range of politics; at the same time, it serves as a foundation for all the others, and is a necessary element in their solution. For this reason, it will be the first to demand our attention.

Being confined to singulars, and relating to the past, it is a positive problem; but the problem concerning singulars which relates to the future is necessarily hypothetical. We may suppose some future event, and then suppose the cause which tends to produce it. For example, during a scarcity of food in any country, we may suppose abundance, or a less degree of scarcity; and we may then suppose the cause which would produce that supposed effect. Again, we may suppose some future event, and then suppose the effects which it would tend to produce. Thus, we may suppose that a treaty now subsisting between two countries will continue in force, or that the proposed terms of a treaty are agreed to between them; and we may then set about considering what effects such treaty, in the supposed case, would be likely to produce.

The methods employed in solving these political problems, all of which relate to singulars, will be first examined. We shall then proceed to the mode of solving the general problem, which is sometimes confined to the past, as when it undertakes to sum up in a single formula the results of all past experience—and is sometimes independent of time, and lays down universal principles of government. The latter problem involves the subject of political theory, with which we shall, therefore, combine its consideration.

CHAPTER IX.

UPON THE DETERMINATION OF POSITIVE CAUSES
IN POLITICS.

§ 1 **I**N most of the physical sciences, the facts which require observation are obscure, on account of their minuteness, their vastness, or their remoteness; and their determination is a matter of great labour and difficulty. Thus astronomy, the most perfect of the physical sciences, must have stopped far short of the point which it has now reached, if it had not been assisted by the telescope and other optical instruments. In politics, the facts to be observed are patent and obvious; though the registration of them, in a historical form, is a work requiring much skill and intelligence. Accordingly, the difficulty of solving a problem of political causation consists not so much in the obscurity and uncertainty of the facts themselves, as in the necessity of disentangling the ravelled skeins into which they are formed, and of discovering a clue in the labyrinth of human action. The inquirer finds himself in the same position as a traveller wandering in a forest, who can clearly discern every object near his eyes, but is bewildered by their number and density.

In attempting to assign the cause of a political fact, the inquirer will at once perceive that the nature of his problem differs essentially from that of the physical philosopher. In physics, the ordinary problem of causation is general; in referring a fact to a constant antecedent, a law of nature is determined. For example, when it is said that the motion of the earth on its axis is the cause of the trade winds, or that the refraction of the sunbeams through globules of water is the cause of the rainbow, a constant connexion of phenomena is affirmed. Hence the physical inquirer can, in investigating a phenomenon, institute new observations, and verify former experiments by

repetition. The subject-matter of his researches is perpetually recurring, in a renewed but identical shape; and each successive fact which exhibits itself will, if properly selected, serve as a correct representative of the entire series.

The political inquirer, in dealing with a problem of past causation, is, however, in the first instance, confined to singulars. His problem is essentially historical, and it must be solved by the actual facts which are known, from authentic testimony, to have preceded the event in question. These facts cannot be reproduced at the pleasure of the inquirer, nor are they to be considered as mere specimens of a class: their individual character must be estimated, and the connexion of cause and effect determined accordingly.

§ 2 In order that a historical problem in politics should be adequately solved, we must make a complete enumeration of the conditions which were necessary, in the given case, for the production of the effect. Having determined these conditions, we may, if we think fit, arrange them in the order of their importance, and we may select some one or two of the most prominent, which we may describe as the cause or causes of the event. In order, however, to give a perfectly correct explanation of the phenomenon, the enumeration of the conditions necessary for its occurrence, of the antecedents, without which the effect could not have been produced, ought to be as complete as possible.

Thus, Homer and the other poets of antiquity describe the injury done to Menelaus by Paris, in carrying off Helen to Troy, as the cause of the Trojan war. If the Trojan war were to be considered as a historical event, and to be treated historically, it could only be accounted for by showing what were the other circumstances, in the actual condition of the Trojans and Grecks, and in their mutual relations, without which this injury would not have led to so serious a retaliation. It would further be necessary to inquire what foundation there is, beyond his own conjecture, for the view of Thucydides, who considers the abduction of Helen as an inadequate explanation, and seeks a cause for the war in the wealth and power, and consequent

ambition, of Agamemnon.⁽¹⁾ Dionysius, in like manner, attributes the war between Rome and the Sabine cities, in the time of Romulus, not so much to the rape of the virgins, as to jealousy at the rise and rapid growth of Rome.⁽²⁾ Descending, however, to a period of certain history, we may observe that Thucydides describes the increased power of Athens, and the fear of that power entertained by Sparta, as the true cause of the Peloponnesian war, though the interference of Athens in the Corcyraean war, and other recent events, were the reasons assigned for the rupture of the treaty subsisting between these two states.⁽³⁾ By the cause, Thucydides here understands that state of things, out of a multitude of successive events, all necessary elements in the sequence, which had the largest share in producing the result.

The causes of the second Punic war are fully investigated by Polybius, whose discussion of the subject deserves to be read at length, as throwing much light on the method of treating this problem.⁽⁴⁾

‘Among the writers that have transmitted to us the history of Hannibal, there are some who assign two causes of the second war between the Carthaginians and the Romans. The first, they say, was the siege of Saguntum; and the other, the passage of the Carthaginians over the river Iberus, in direct breach of treaties. Now, that these two incidents were the *beginning* of the war, I shall readily allow; but by no means that they were the *causes* of it. It might with equal reason be affirmed, that the first irruption of Alexander into Asia was the cause of his war against the Persians; and the arrival of Antiochus with an army at Demetrias,⁽⁵⁾ the cause of that war which

(1) i. 9. See Ovid, *Amor.* ii. 12, v. 17-24.

(2) *Ant. Rom.* ii. 32.

(3) i. 23, 88.

(4) As to the invasion of Greece by Darius and Xerxes being the assigned reason or pretext for Alexander's invasion of the Persian empire, see the letter of Alexander to Darius Codomannus, after the battle of Issus, in Curt. iv. 1, where, after reciting these aggressions, he says—*‘Repello igitur bellum, non infero.’*

(5) See Thirlwall's *History of Greece*, vol. viii. p. 341.

followed with the Romans. Yet nothing can be more absurd or false. For it is certain that Alexander, and indeed his father Philip, had long before this time formed the project of an expedition into Persia, and made great preparations for it; and the Ætolians likewise were no less fixed in their design to excite a war against the Romans before Antiochus came into Greece. Such mistakes arise from not remembering that a distinction should be always made between the *cause* and *pretext*, and the *beginning* of a war; and that the first of these are, in order, always antecedent to the latter. To speak justly, the beginning is the first step towards the execution of any project, after it has been determined. The cause is previous to all determination. It is something that first suggests the project to the mind—that inclines us to examine it—to deliberate, determine, and at last to carry it into execution. I will endeavour more clearly to explain my meaning by the following examples:—The causes of the war against the Persians are obvious, and easy to be understood: the first was the retreat of the Greeks under the command of Xenophon, who, in their return from the upper provinces of Asia, traversed the whole country of their enemies, without being encountered by any force that was able to stand before them. The other was the irruption of Agesilaus, king of Sparta, into Asia, where he found no strength sufficient to obstruct his progress; though, indeed, the troubles that were then raised in Greece constrained him to abandon his designs, and return back again without performing any action of importance. For Philip, having revolved these things in his mind, and compared the softness and effeminacy of the Asiatics with his own skill in war, and with the bravery of the Macedonian soldiers, and being invited also by the richness of the prize that was before him, had no sooner fully gained the favour of the states of Greece than he resolved to turn his arms against the Persians, and began, with eagerness, to make all the preparations that were necessary for this design; at the same time declaring, that his purpose was to avenge the injuries which the Greeks had received from Persia. It is clear, therefore, that the

things first mentioned were the *causes* of the Persian war, as the last was the *pretext*; and that the first entrance of Alexander into Asia was the *beginning* of it.⁽⁶⁾

Polybius proceeds to examine in detail the causes of the second Punic war. These, he says, are three: First, the resentment of Hamilcar Barca against the Romans, on account of his defeat in Sicily. Secondly, and principally, the resentment of the Carthaginian people against the Romans for the cession of Sardinia, and the payment of 1200 talents, extorted from them unjustly during the weakness caused by the war of the mercenaries. Thirdly, the successes of Hamilcar Barca in Spain, and the means which these afforded for a successful renewal of the war.⁽⁷⁾ The historian, after a review of the treaty-engagements between Rome and Carthage bearing upon the question, decides that, if the destruction of Saguntum by Hannibal was the cause of the war, the Carthaginians were not justified in commencing hostilities, because this act was a breach of the treaties; but that if (as he appears to think) the hard terms forced by the Romans upon Carthage, at the moment of her weakness, was the true cause, then it follows that the Carthaginians were justified in seizing the first favourable opportunity for recommencing the contest.⁽⁸⁾

We see in these remarks that the true *cause* of the war, and the *justification* of either party for entering into it, are, in the mind of Polybius, closely connected. We merely here note this connexion; we shall have occasion, presently, to return to the intimate relation which subsists between causation and moral blame or responsibility, in all matters relating to human action.⁽⁹⁾

The causes of the Roman civil war are enumerated and analysed by the poet Lucan in the style of a historian—

Fert animus causas tantarum expromere rerum,
Immensumque aperitur opus, quid in arma furem
Impulerit populum, quid pacem excusserit orbi.

(6) iii. 6. From Hampton's translation.

(8) iii. c. 28-30.

(7) iii. 9, 10.

(9) Below, § 22.

First in order he places the personal relations of the party chiefs—Pompey, Cæsar, and Crassus—their rivalry, and peculiar dispositions. To these he adds the social causes which promoted and perpetuated internal discord :—

Hæ ducibus causæ suberant ; sed publica belli
Semina, quæ populos semper mersere potentes.⁽¹⁰⁾

The causes of the rapid growth of the Christian religion in the Roman world, after its first institution, are investigated by Gibbon, in the 15th chapter of his history. The primary cause he states to have been the convincing evidence of the doctrine itself, and the ruling providence of its great author. In addition, however, to this primary cause, he enumerates five secondary causes, which assisted in producing the effect, viz. : 1, the inflexible zeal of the early Christians ; 2, the doctrine of a future life, as held by the Christian Church ; 3, the miraculous powers ascribed to the primitive church ; 4, the pure and austere morals of the Christians ; 5, the union and discipline of the Christian republic. These five causes he expounds at length, and illustrates their operation in detail.

Mr. Alison, in like manner, in his *History of Europe from 1789 to 1815*, traces, in the political and social state of France, the various predisposing causes of the French revolution. These were, according to his enumeration :—1, the destruction of the power of the great vassals of the crown, and the consolidation of the provinces into one kingdom ; 2, the military spirit and courage of the French people ; 3, the active cultivation of literature and philosophy ; 4, the state, position, and doctrines of the church ; 5, the privileges of the nobles ; 6, the system of taxation ; 7, the destitute state of the labouring poor ; 8, the non-residence of the landowners ; 9, the local burdens and feudal services ; 10, the abusive administration of justice ; 11, the extent of the royal prerogative ; 12, the corruption of the court ; 13, financial embarrassment ; 14, the American war of independence ; 15, ill-

(10) i. 67-182.

timed changes in the discipline of the army; 16, and lastly, the prevailing spirit of innovation.⁽¹¹⁾ In addition to these causes, he attributes the peculiarly sanguinary character of the French revolution to the habits and feelings generated by the despotism which had preceded it, and to the magnitude of the political changes which, on account of the unreforming spirit of the previous government, were condensed within a few years.⁽¹²⁾

With the sufficiency or insufficiency of the alleged causes, in each of the cases above cited, to produce the effect in question, we have at present no concern. We have adduced these examples merely with the view of illustrating the method in which a historian ought to treat the causation of any great complex historical event. As we have seen, he arranges in a series the principal determining facts which contributed to produce the complex event for which he is seeking to account, attributing to each its proportionate share of importance.⁽¹³⁾ For example, the preaching of Luther against the indulgence-money, and the convening of the States General, were the two circumstances which immediately occasioned the Reformation and the French Revolution; but without a great many other circumstances, antecedent and concomitant, these effects would not have been produced.

These two circumstances, to use a trite but apt illustration, were the spark which fired the train of gunpowder; but the train must have been previously laid. And as, in the case of a mine, the excavation is a long and laborious process, while the application of the light to the train when the powder has been lodged under the wall is the work of an instant, so, in political affairs, a long series of efforts, of influences upon popular feeling, of acts

(11) ch. 2.

(12) ch. i. *ad fin.* Compare the work of M. Granier de Cassagnac, *Causes de la Revolution Française*.

(13) 'Ceterum, antequam destinata componam, repetendum videtur, qualis status urbis, quæ mens exercituum, quis habitus provinciarum, quid in toto terrarum orbi validum, quid ægrum fuerit; ut non modo casus eventusque rerum, qui plerumque fortuiti sunt, sed ratio etiam causæque noscantur.'—Tacit. *Hist.* i. 4.

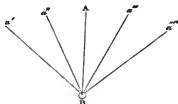
by the government, of social and intellectual changes, and of other circumstances, has in general preceded and conditioned a political convulsion, which may be immediately provoked by some trifling incident. Hence Aristotle says that the seditions and conflicts of political parties in the Greek states were not for small objects, but grew out of small occasions.⁽¹⁴⁾ In other words, the entire series of antecedents was important, but the incident leading immediately to the actual outbreak was unimportant. The Reformation affords a striking example of the manner in which political convulsions arise out of small events, but turn upon great interests. The resistance of Luther to the sale of the indulgences was an incident trifling in itself; but in the actual state of men's minds, it gave the first impulse to a movement which shook the whole fabric of the Western Church—which ended by separating the most enlightened parts of Europe from the Roman allegiance, and for two centuries distracted the entire European community.⁽¹⁵⁾

The method pursued by the most approved historians, in tracing the origin and assigning the causes of great events and changes in the state of mankind, may serve to warn us against the error—so common in the off-hand history of contemporary politics—of seeking for the cause of political events in a single circumstance; of indulging in a simplification which is merely apparent—which abridges labour, not by substituting a rapid for a tedious process of manufacture, but by producing a worthless article; which renders an intricate problem easy, not by bringing all its data within the grasp of a powerful analytic mechanism, but by omitting some of its essential conditions. In constructing a sensible image of our conceptions of political causation, we are apt to figure to ourselves the two events, viz.

(14) γίνονται μὲν οὖν αἱ στάσεις οὐ περὶ μικρῶν ἀλλ' ἐκ μικρῶν, στασιάζουσι δὲ περὶ μεγάλων.—*Polit.* v. c. 4.

(15) 'Philippe de Comines, et la foule des historiens qui l'ont suivi, prétendent que la guerre contre les Suisses, si fatale au Duc de Bourgogne, fut excitée pour une charrette de peaux de moutons. Le plus léger sujet de querelle produit une guerre quand on a envie de la faire.'—Voltaire, *Essai sur les Mœurs*, c. 95.

the cause and effect—A and B—as points connected by a single line; whereas we ought to represent the causation by numerous points, one of which may perhaps be more prominent than the rest—connected with the effect by converging lines.



The nature of the prevailing misconception as to the simplicity of political causes may be illustrated by the following verses, taken from a collection of old French proverbs :

Paix engendre prospérité,
De prospérité vient richesse,
De richesse orgueil et volupté,
D'orgueil contention sans cessac,
Contention la guerre adresse ⁽¹⁶⁾
La guerre engendre pauvreté,
Pauvreté humilité,
D'humilité revient la paix,
Aussi retournent les humains. ⁽¹⁷⁾

Now, in real history, events never follow one another according to so simple a law of causation, and in a constant cycle. The effect may be one, but the conditioning circumstances are many. The result may be simple, but the antecedents are complex. There is always a composition of forces; some collateral

(16) *Adresser* seems to be here used in the sense of *drizzare*, or *dresser*, *erigere*.—See Ducange, *Gloss.* in 'drizare.'

(17) See Gruteri *Florilegium Ethico-politicum*, vol. i. (1610, Francofurti). The following passage from Ramsay's *Voyages de Cyrus* contains a similar view with respect to the succession of causes and effects in the affairs of nations:—'Pendant l'espace de trois cens ans la valeur des rois de Médie avoit augmenté leurs conquêtes. Les conquêtes avoient engendré le luxe, et le luxe est toujours l'avant-coureur de la chute des empires. Valeur, conquêtes, luxe, anarchie, voilà le cercle fatal, et les différens périodes de la vie politique de presque tous les états.'—liv. i. p. 4.

influence is added, and the simple action of the cause is modified, so that the next stage in the series of effects varies from the formula, and the imaginary chain of causation is deserted by the real course of events.

§ 3 Having exemplified the treatment of the problem of causation by historical writers, we will proceed to inquire into the methods of determining political causes; and in so doing, we shall have occasion to consider how far the methods laid down for the investigation of causes in physics are applicable to this purpose.

The investigation of political causes, even in the simplest cases of past events, is carried on partly by an inductive, and partly by a deductive process. The circumstances of the case are observed and noted, as in an induction of physical facts; but for determining the causation, some extraneous principles, derived from a wider observation of mankind, must be applied, and in order to apply them, a deductive process of reasoning must be gone through.

The four processes of reasoning in which Mr. Mill has summed up the methods of the inductive logic, when applied in cases of experiment,⁽¹⁸⁾ are all applicable, with certain corrections and safeguards, to the investigation of causes in politics, as we shall proceed to show. These four processes are denominated by him—the Method of Agreement, the Method of Difference, the Method of Residues, and the Method of Concomitant Variations. The two last, however, are in strictness only particular forms of

(18) Vol. i. p. 450, b. 3, c. 8. Concerning the nature of induction, in addition to Mr. Mill's treatment of the subject, see Dr. Whewell's tract on *Induction* (1849), and Mr. Thomson's *Laws of Thought*, § 78, 86, 93.

Dr. Whewell (*Of Induction*, § 43) remarks that Mr. Mill's methods bear a great resemblance to Bacon's *Prerogatives of Instances*: for example, the method of agreement to the *instantiæ ostensivæ*; the method of difference to the *instantiæ absentiæ in proximo*, and the *instantiæ crucis*; the method of concomitant variations to the *instantiæ migrantes*. The *instantiæ ostensivæ*, however, are merely remarkable and prominent manifestations of the object under investigation, *Nov. Org.* ii. 24; and the *instantiæ migrantes* are applications of the method of difference to several objects, but they are not supposed to vary as one another, *ib.* 23. *Qu. as to the instantiæ absentiæ in proximo*: see the list in ii. 52.

the second, and therefore we shall, for the present, confine our attention to the two first.

Of these two—the Method of Agreement, and the Method of Difference—the former infers that if, while the accompanying phenomena vary, two phenomena occur together, they are related as cause and effect: the latter infers that, if two phenomena occur in company with a certain set of phenomena, but are wanting where the same set of phenomena occur elsewhere, they are related in the same manner. Thus, adopting Mr. Mill's notation, and representing the antecedents by a large, and the consequents by a small letter, if we are in search of the cause of *a*, and we have ABC with *abc*, and ADE with *ade*, we infer, by the Method of Agreement, that A is the cause of *a*. Again, if we have BC with *bc*, and ABC with *abc*, we infer, by the Method of Difference, that A is the cause of *a*.

In the present chapter, we are principally considering the determination of causes, the political effect being given; but as the methods now in question are general, we shall, in examining their application to politics, sometimes include the determination of effects likewise.

§ 4 The Method of Agreement, accordingly, consists in inferring causation where two circumstances are combined with different elements, where they continue unchanged in dissimilar media. As their connexion remains, while all other circumstances vary, it is inferred that the element which is alone constant is due to causation. Now in the experimental sciences, where the phenomena can be stripped of all accessories, and their operation laid bare to the student, such a simple mode of inferring can be used with advantage; but in politics, the possible antecedents of each fact are too numerous, and the causation too complex, for this method to be safely adopted, without a subsidiary process of reasoning. For example, we might find, in a given country, a prosperous condition of the labouring classes, combined with the existence of a poor-law, coincident, in different districts, with a great variety of other circumstances. Calling A the poor-law, and *a* the prosperous state of the labouring

classes, we might, in different parts of the country, have A B C and *abc*, A D E and *ade*, A F G and *afg*, A H I and *ahi*, and so on; yet it would be dangerous, from this coincidence alone, to infer causation. There are so many other circumstances, besides a poor-law, which might produce a prosperous state of the labouring classes, that some argument beyond the mere frequent concurrence of the two phenomena, even in different combinations, is needed in order to establish the conclusion. Again: suppose it were sought to prove, by a similar mode of reasoning, that the diffusion of education promotes crime—it might be argued that, because diffusion of education co-exists with a large amount of crime in many districts, in combination with a great variety of other circumstances, therefore the former is the cause of the latter. But this mode of arguing would be open to the same objection. There are so many *other* causes, besides a diffusion of education, which might multiply crimes, that the mere coincidence of a prevalence of crime with extensive education; even under a variety of circumstances, does not alone entitle us to infer causation. There may be some *other* circumstance, or set of circumstances, constantly accompanying a prevalence of crime—or, what is equally probable, when so complex a subject as *crime* is in question, the prevalence of crime in different districts may be owing to different causes.

Nevertheless, the Method of Agreement, though not conclusive in politics, and always requiring a further process of negative comparison and verification, is useful as an indication of the truth, and as guiding the steps of the inquirer. Where, indeed, the number of cases examined is small and complex, this method is absolutely worthless; but in proportion as the number of cases is increased, and the concomitant circumstances are diversified, it acquires increased value. Wherever there is a plurality of causes, the Method of Agreement, unassisted by ulterior arguments, is necessarily inconclusive: it may be useful as affording suggestions, and pointing out the right path, but it can never by itself lead to a decisive result. Now in politics, there is always a plurality of possible causes: and as the field of

inquiry cannot be narrowed by the experimental method, a merely affirmative process, such as the Method of Agreement, provides no means for the *abscissio infiniti*. Whereas in the physical sciences, where the Method of Agreement is applicable, other causes can be excluded, so that it in fact involves a negative element, which is always wanting in politics. Thus, to take Mr. Mill's example of this method: 'Let the effect be crystallization. We compare instances in which bodies are known to assume crystalline structure, *but which have no other point of agreement*; and we find them to have one, and, as far as we can observe, only one, antecedent in common—the deposition of a solid matter from a liquid state, either a state of fusion or of solution. We conclude, therefore, that the solidification of a substance from a liquid state is an invariable antecedent of its crystallization.'⁽¹⁹⁾ If we could observe two political phenomena in constant or frequent connexion, amidst numerous varieties of circumstances, and if we could, as in the case of crystallization, ascertain that there was no *other* point of agreement—then we might draw the same inference as in the physical case. But although, in politics, we may find A B C and *abc*, A D E and *ade*, and so on, in many other cases, yet it may happen that some unobserved fact or combination of facts—X or Y—may be present in each of these cases, and may be the true cause of *a*. The canon of this method is stated by Mr. Mill in the following terms: 'If two or more instances of the phenomenon under investigation have *only* one circumstance in common, the circumstance in which *alone* all the instances agree is the cause of the given phenomenon.'⁽²⁰⁾ The conclusiveness of this method, therefore, depends on the determination of the negative fact, that the circumstance in which the phenomena all agree, is the *only* circumstance in which they all agree. Now, in the experimental sciences, this negative fact can, for reasons above stated, be determined; but in politics it cannot be determined; and therefore, in politics, this method cannot be relied upon without some correction or verification.

(19) *Logic*, vol. i. p. 452.

(20) *Ib.* p. 454.

The Method of Agreement is likewise, in politics, subject to another source of error, arising from the non-operation of causes apparently operative. Thus, a law designed to produce a certain effect may have been long in force, and the designed effect may co-exist with it; and yet the operation of the law may have been so frustrated by evasions, private agreements and arrangements, supineness or corruption of the authorities, or passive resistance to its enactments, that its concurrence with the presumed effect may prove nothing. The effect in question may be due to other causes, and may have been rather retarded than promoted by the law in question. Thus, commercial prosperity may co-exist with restrictions on trade, without being caused by them; and may, in truth, be owing principally to the success with which they are evaded or counteracted.

§ 5 It is chiefly by the Method of Agreement that the existence of a *habit* or *custom* is inferred from the periodical or frequent recurrence of certain acts. From the repetition of the same act, either at stated periods, or at short intervals, we infer the existence of a common design in all these several cases: from the existence of a similar effect, recurring at successive times, and in combination with different circumstances, we infer the existence of a common cause. Thus, if we observe that a man leaves his house every day at a certain hour in the morning, or returns to it at a certain hour in the evening, we conclude, after a certain number of days, that this regularity indicates a *habit*, and that there is a common cause which binds together this series of effects. The same inference would be drawn, from similar premises, if the same act were repeated by different persons—as when different persons shake each other's hands when they meet, or pass one another on a certain side of the street. This agreement constitutes a *custom* or *usage*. A habit and a custom both imply a series of similar acts, referable to a common origin, and it is this common origin which gives them their meaning and importance. It may be asked, how many instances are requisite in order to prove the existence of a habit or custom. To this inquiry no more specific answer can be given, than that the number must

be sufficient to indicate the existence of a constant cause. As soon as the successive acts can be referred to a systematic design, the conclusion may be drawn; and the indications of such design are to be found in the circumstances and character of the act, and in the times of its recurrence. It is not, however, possible to fix any definite number of cases as adequate, with respect to a habit or custom, more than it is possible to fix a definite number of individuals, whose agreement in a common property authorizes the inference that it belongs to the entire class. Where the act is peculiar, and it is repeated at short and regular intervals without variation, a small number of instances suffices as a foundation for the inference. The disposition, under such circumstances, to perceive a set purpose and to infer a habit, is strong and universal. Nor is it confined to man; for we observe that dogs and other animals speedily infer a habit in their masters, particularly with regard to their own feeding. In like manner, we are unable to define the periods at which the acts constituting the habit recur; or (what Mr. Sydney Smith has called) the *orbit* of a habit.⁽²¹⁾ All that we can say is, that the intervals must be sufficiently short, to be consistent with the hypothesis of the successive acts having all a reference to a common cause. Unless, indeed, the acts recur under such circumstances, as to necessitate the supposition of a common cause, and to exclude all other suppositions, the inference of the existence of a habit is inconclusive.

There is, in many parts of our physical nature, a tendency to periodical recurrence, analogous to the habits of our intellectual nature. It may be observed in many healthy functions, such as those of sleep, appetite, digestion, and the action of the heart, as well as in many morbid actions, as agues, intermittent fevers, and other recurrent diseases. In these cases, the inference as to the periodicity is similar to that as to a habit or custom—only, instead of the cause being the intelligent action of the mind, it is a law of our physical economy. Other periodic phenomena occur in the lower animals, such as hybernation;⁽²²⁾ and the

(21) *Sketches of Moral Philosophy*, Lect. 27, p. 411.

(22) See Carpenter's *Principles of Gen. and Comp. Phys.* § 157.

periodicity of perennial plants is one of their most marked characteristics.

All customs and habits have, in their origin, an intelligent cause; they are the effects of design in single individuals, or of concert or voluntary imitation in numbers. But both in individuals and bodies of men, habits tend to become mechanical, and to continue without a consciousness of the original cause. This may be observed both in the self-created habits of individuals, and in national manners and usages. When this happens, however, although the original cause has ceased, yet a new cause, viz. a proneness to repeat and imitate an act frequently done, is substituted.

In applying the Method of Agreement to the determination of political causes, we have, in the first instance, to deal with special cases. The problem is to determine the causation of a certain fact, or set of facts: for instance, the cause of a certain commercial crisis, or popular commotion, in a certain country. Now, assuming a certain cause to be, in a given case, indicated by this method, it is necessary, before the argument can be considered, that we should be satisfied of the *general* adequacy of the cause to the production of the supposed effect. This general proposition may itself be established, either by the Method of Agreement, or by any other method of inquiry which can be used to prove causation. But it is essentially an inductive argument: it proceeds from a limited number of cases to the entire class, and infers that, because a certain fact is an adequate cause of certain individuals of a class, it is an adequate cause of the entire class. As to the extent to which universal causes in politics can be laid down, more will be said in a future chapter.⁽²³⁾

§ 6 The Method of Difference, as we have already seen, consists in taking a complex set of antecedents and consequents in one case, and comparing them with another case, in which all the same antecedents and consequents, *excepting one pair*, occur. It is then inferred that this pair stand to one another

in the relation of cause and effect. 'It is scarcely necessary (says Mr. Mill) to give examples of a logical process to which we owe almost all the inductive conclusions we draw in daily life. When a man is shot through the heart, it is by this method we know that it was the gunshot which killed him, for he was in the fulness of life immediately before, all circumstances being the same except the wound.'⁽²⁴⁾

A large number of the conclusions which we draw with respect to causation of past events in politics, are founded upon this principle. For instance, when an army runs away after a defeat; when a besieged city surrenders to the enemy; when a government yields to the demands of its subjects in insurrection; when a famine ceases upon the advent of a supply of food,—and we infer that the defeat of the army is the cause of its flight; that the blockade of the city is the cause of its surrender; that the threats of the insurgents are the cause of the concessions of the government; that the supply of food is the cause of the cessation of famine,—we reason according to this method. Two new circumstances are introduced into a complex set of facts, *everything else remaining substantially the same*; and we infer that one of these is the effect of the other.

§ 7 In reasoning upon causation, we must either be prepared to generalize the individual case by an inductive argument, or we must know, by a previous inductive argument, that the assigned cause is generally adequate to the production of the effect. For example, when Tacitus attributed the conduct of Messalina to a disinterested craving after infamy,⁽²⁵⁾ he may have observed that part of human nature in her for the first time, and have afterwards extended it to a general proposition, that infamy is the highest pleasure of the utterly reckless.

On the other hand, when we in ordinary cases detect causation by the Method of Difference, the substratum of our conclusion is, that the cause is *generally* adequate to the pro-

(24) *Ibid.* p. 455.

(25) *Nomen tamen matrimonii concupivit, ob magnitudinem infamie, cuius apud prodigos novissima voluptas est.*—*Ann.* xi. 26.

duction of the effect. When the decapitation of a particular man or animal is followed by instant death, the inference that the one event is the cause of the other rests upon the general assumption, that decapitation is an adequate cause of death. Again, to take Mr. Mill's instance of death by a gunshot in the heart: before we can infer safely that a certain man, *John Stiles*, who was shot through the heart one moment, and was dead the next, died of this wound, we ought to know the general proposition, that a gunshot wound in the heart causes instantaneous death. This proposition must have been ascertained by induction, confirmed by general considerations respecting the physiological character of the heart, as the mainspring of the sanguineous system. If he had been shot through the finger, and had died shortly afterwards, we should not draw this inference. Why not? for the facts, logically considered, are precisely similar. The reason why, in the latter case, we should not draw the inference is, because we know that a gunshot through the finger is not in general a cause adequate to the production of instantaneous death. If the shot had passed through the thigh, we should suspect it to be the cause of the instantaneous death, but should not feel confident, without further investigation as to the possible existence of some other circumstance which might have been the cause of death. Xenophon informs us that, during the retreat of the ten thousand from the region of the Euphrates, a cutting north wind blew in the faces of the soldiers, and gave them severe pain; whereupon one of the soothsayers advised that sacrifices should be offered to the wind. This was done, and 'it seemed to all (says Xenophon) that the severity of the wind immediately ceased.'⁽²⁶⁾ Inasmuch as the sacrifice to the god Boreas would appear to the Greeks an adequate cause for the mitigation of the north wind, the occurrence of the latter event immediately after the former would, to their minds, be a conclusive proof of causation. To a modern, who does not consider a sacrifice to Boreas as possessing any

(26) *Anab.* iv. 5, § 4.

such virtue, the two events appear to be merely coincident in point of time ; and he does not recognise the one as the effect of the other. In like manner, when we see a conjuror's tricks, we do not believe that they are produced by any magic or supernatural power, though we are unable to explain them by natural means. We are convinced that they are owing to some sleight of hand, and not to any occult virtue resident in the conjuror, though we cannot discover the real causation. The annual liquefaction of the blood of St. Januarius at Naples, and the conflagration of the sacred torch at the chapel of the Holy Sepulchre, are believed to be miracles by a large number of pious spectators, whose belief in the special miracle rests on their general belief in the miraculous power of the contemporary church ; and they therefore consider the assigned cause as adequate : whereas protestants reject this cause generally, and therefore consider these exhibitions as devoid of all miraculous character. Again : those who believe that a person in a state of mesmeric *clairvoyance* has seen external objects, independently of the recognised organs of sight, doubtless believe that the same power exists in other persons in a similar state ; while those who discredit the existence of such a power, would deny this operation of the cause in any specific case.

A similar condition is applicable to the use of this method in politics. We must know, *aliunde*, that the cause which we assign in the individual case is adequate to the production of the effect. Thus, when we infer that the defeat of an army at a given battle was the cause of its flight, we found our inference upon something beyond the close juxtaposition of the two events in time and place. We know that defeat is an adequate cause for the production of the effect—flight ; and that flight is an effect naturally consequent upon defeat. So, when we hear that a famine ceased upon the importation of supplies of food, or upon the occurrence of an abundant harvest, and we infer that the one fact is the cause of the other, we found our inference partly on our knowledge that the cause is adequate to the production of the effect.

§ 8 The great majority of our inferences as to historical causation are made by the Method of Difference, protected by the safeguard which has been just explained. When the change is rapid, when the event is, so to say, theatrical, and we confine ourselves to the immediate antecedent, the determination of the cause (supposing always that the facts have been properly observed and registered) is easy and certain. Nobody can doubt, for example, that the defeat of Napoleon at Waterloo was the cause of his abdication and surrender; that the revolution of July, 1830, was the cause of the abdication and flight of Charles X., or that the revolution of February, 1848, was the cause of the abdication and flight of Louis Philippe. But (as we have already seen) the philosophic historian, in solving a problem of causation, does not confine his view to the single immediate antecedent; he includes, in a composite cause, a variety of circumstances, reaching back in time, and covering a wide surface of space, to the combined operation of which he traces the effect under investigation. Thus, the mere defeat at Waterloo does not, for historical purposes, explain the downfall of Napoleon; nor are the abdications of Charles X. and Louis Philippe accounted for satisfactorily, by a mere reference to the popular insurrections to which they were immediately owing. Now, in forming a composite cause of this kind, the simple application of the Method of Difference to the ultimate facts will not suffice; a longer and more elaborate analysis of antecedents is necessary, such as has been exemplified in some of the historical investigations referred to above.

Some of the historical illustrations which we there adduced, serve likewise to show that the event which acts as the immediate occasion of a great political change is properly not the cause, but only a fragment of the cause. Without it, the other elements might have remained dormant, at least for a time; but without them, its effect would have been unimportant and unfelt. Such an event as the preaching of Luther against the indulgence-money might easily have occurred, without being followed by a consequence of such magnitude as the Reformation; nor would

any such effect have happened, unless the various circumstances predisposing to it had already been in existence. An event such as the preaching of Luther is like the last feather which breaks the camel's back, or the last drop which makes the cup overflow. A large aggregation of similar influences has been gradually taking place, each one inadequate by itself to the production of the effect, but, when combined, they are ultimately sufficient. As the last events are those which immediately precede the event, they attract the chief attention, and appear the most operative: thus, the casting vote of a president, by which a question is decided, seems the most important; though, in fact, it counts for no more than any other vote in the assembly. A cause of this sort is built up by the aggregation of separate items, and it is the office of the historian to trace these severally, to assign the value of each, and, finally, to exhibit their combined operation.

Causes in politics may be compared with causes in medicine, which are divided by medical writers into remote and proximate; and the former into predisposing, occasional, or exciting.⁽²⁷⁾ In medicine, as in politics, the proximate cause is generally the most conspicuous and striking; but the remoter causes, though more obscure, are often not less important in their effects.

Much practical error in assessing the comparative value of the different items of a composite cause, arises from the habit of over-estimating the importance of those events which immediately precede the effect in question. Where an effect depends on a long-prepared series of events, the chief merit is often attributed to those who gather in the harvest, rather than to those who ploughed and sowed the field; whereas, in effects which imply a long concatenation of predetermined events, the principal difficulties, and the chief demands for labour and daring, are generally at the outset, not at the termination of the work. Hence, in enterprises of different sorts, requiring a series of

(27) See Gregory, *Conspectus Medicinæ*, § 36-40. The proximate cause is often compound, § 47.

sustained efforts for their accomplishment, the first steps, though generally the most arduous, are made in obscurity, and amidst discouragement and neglect, while the last steps, when the long-wished for goal is in sight, and success is all but certain, are stimulated and rewarded by the admiration and applause of thousands. On the other hand, in the estimation of a concerted crime, more blame ought to be imputed to educated persons, who form a deliberate plan, employ agents, and furnish funds for its execution, than to the obscure instruments whom they select for the purpose, though it sometimes happens that the legal punishment is not so apportioned.

§ 9 The Method of Agreement supposes at least three subjects of comparison. A, together with its effect, is supposed first to be examined when surrounded by the medium B, and secondly when surrounded by the medium C. The cause and effect remain unchanged, in the midst of a varying medium; and upon the unchangeability of the one, compared with the variation of the other, the inference rests. On the other hand, the Method of Difference may be founded on two successive states of the same thing, surrounded by an unchanging medium. The subject of inquiry varies, while the medium in which it is immersed remains the same. Thus, if a window-shutter is opened in a dark room, it is inferred that the removal of the shutter is the cause of the entrance of the light. All other things remaining the same, the state of the room is altered, and the alteration is immediately followed by a certain phenomenon, which is hence presumed to be its effect.

These methods are equally conclusive, if the surrounding medium is equally well accounted for—if the negative fact that a concurrent cause does not exist, is fully established. This negative fact, however, is more easily established in politics, where the Method of Difference is applied to successive states of the same subject, than it can be by the Method of Agreement. The two states may follow one another so rapidly, and the absence of all other substantial change may be so apparent, that the inference may be free from all doubt. Hence, the effects of a long esta-

blished law are more difficult to detect than the effects of a new law, because the former are determined by the Method of Agreement, the latter by the Method of Difference.

When a new law has been made and carried into execution, we should be able to trace its effects with precision by the Method of Difference, if everything, except the law itself, remained unchanged. Suppose, for brevity's sake, that the various causes in operation at the time when the law is passed, together with their effects, are represented by the symbols ABC and abc —that the new law is D , and that a new effect, d , appears shortly afterwards. We then have, at two successive periods of time, these two groups of phenomena :

First period— ABC and abc .

Second period— $ABCD$ and $abcd$.

Now, if we can be sure that the facts represented by ABC and abc remain substantially unaltered, and have undergone neither increase nor diminution, then we may fairly infer that the new law, D , is the cause of the new effect, d . In order to give this influence any validity, it must likewise be assumed, or proved, that D is capable of producing the effect d .

That this method of reasoning can only be applied where we are sure that the phenomena compared differ only in one point, appears from Mr. Mill's statement of its principle. The following is his canon of the Method of Difference :

'If an instance in which the phenomenon under investigation occurs, and an instance in which it does not occur, have *every* circumstance save one in common, that one occurring only in the former; the circumstance in which *alone* the two instances differ is the effect, or cause, or a necessary part of the cause, of the phenomenon.'⁽²⁸⁾

Unless, therefore, they have *every* circumstance save one in common—unless the two instances differ in one circumstance *only*, the inference does not hold good. Now in experimental inquiries this precision is attainable ; the experimenter can exclude

(28) *Ib.* p. 455.

all phenomena except those which he desires to compare. Thus, if a chemist, having combined substances *A* and *B*, and having thus produced a certain effect, wishes to combine with them substance *C*, and try the effect, he can do so without any chance of error. In like manner, if he is desirous of discovering the cause of some effect by the same method, he can institute the comparison without danger of the intrusion of elements foreign to his problem.

Moreover, in the physical sciences, even in cases where experiment is inapplicable, the operation of concurrent causes is sometimes excluded by the nature of things, without any artificial contrivance. For example, if we find the surface of the earth covered with snow, we know that this effect is due to a snow-storm—we know that the difference between the covered and uncovered states of the earth has been caused by the descent of snow from the clouds, because there is no *other* possible cause for this phenomenon. In like manner, if we saw a calm sea become agitated under the action of wind, we should know that the change was due to the wind, because no *other* cause could produce the effect. The same remark applies to the occurrence of ice or boiling water, for which a certain degree of temperature is the necessary cause; and, indeed, to a large class of physical phenomena which have one, and only one, invariable antecedent. Most of the physiological phenomena belong to this number, such as the processes of circulation, digestion, secretion, sensation, and reproduction, which can only be performed in one manner. From the effect, we can therefore reason back with certainty to the single cause.

But the investigation of the effects of political laws and institutions by the Method of Difference does not admit of the precision attainable by the same method in the physical, and especially the experimental sciences, and therefore is never quite conclusive. A close approximation to it is nevertheless possible in the simpler cases of new legislation. Where the change effected by a law is of a patent and obvious nature, and where it can be ascertained with certainty that all the material circum-

stances of the case remain unchanged, the inference is nearly as sure as in an experimental science. Many examples might be cited of police regulations, and of other subordinate matters of municipal economy, in which the operation of a new rule can be traced with great precision. A person charged with the government of a regiment, a ship, a school, a prison, a hospital, or a workhouse, might, if he exercised a vigilant inspection, determine very accurately the effects of any new regulation by the Method of Difference. In a small body of this kind, the material circumstances affecting any new regulation would, for a short time, remain unchanged; or if any slight change took place, an allowance might be made for it in the computation of results, so that a comparison of the state of things before the regulation, with their state after its introduction, would give its true effect.

§ 10 The process of reasoning in a case of this sort may be considered as being conducted according to that form of the Method of Difference, which Mr. Mill calls the Method of Residues.⁽²⁹⁾ The governor of such a body as those in question may be conceived as having separately ascertained the nature and value of each influence at work in it, together with the corresponding result; when a new influence is set in motion, and a new effect makes its appearance, this residuary effect, not accounted for by his previous observations, he attributes to the agency of the new cause.

The unforeseen effects of changes in legislation, or of improvements in the useful arts, may often be discerned by the Method of Residues. In comparing statistical accounts, for example, or other registers of facts, for a series of years, we perceive at a certain period an altered state of circumstances, which is unexplained by the ordinary course of events, but which must have some cause. For this *residuary phenomenon*, we seek an explanation until it is furnished by the incidental operation of some collateral cause. For example, on comparing the accounts

(29) *Ib.* p. 460.

of live cattle and sheep annually sold in Smithfield market for some years past, it appears that there is a large increase in cattle, while the sheep are nearly stationary. The consumption of meat in London may be presumed to have increased, at least in proportion to the increase of its population; and there is no reason for supposing that the consumption of beef has increased faster than that of mutton. There is, therefore, a residuary phenomenon—viz., the stationary numbers of the sheep sold in Smithfield—for which we have to find a cause. This cause is the increased transport of dead meat to the metropolis, owing to steam navigation and railways, and the greater convenience of sending mutton than beef in a slaughtered state.

Again: on comparing the consumption of wine with that of spirits and beer in England during the last sixty years, we find that the former has remained stationary, while the latter has undergone a great increase. The general causes, such as increase of population and wealth, which have increased the consumption of spirits and beer, have not increased the consumption of wine. For this residuary phenomenon, a special cause must be sought; and it may be found principally in the alteration of habits among the upper classes with respect to drinking.

In treating in a future chapter of the unforeseen consequences of laws, we shall have occasion to recur to this application of the Method of Residues.⁽³⁰⁾

§ 11 The remaining process for determining causation, is called by Mr. Mill the Method of Concomitant Variations, the principle of which is thus stated: 'Whatever phenomenon varies in any manner whenever another phenomenon varies in some particular manner, is either a cause or an effect of that phenomenon, or is connected with it through some fact of causation.'⁽³¹⁾

This method, again, is substantially only a particular case of the Method of Difference. Where two things vary as each other, each successive variation is in fact a new state, so that a

(30) Below, ch. xii. § 10.

(31) *Ib.* p. 470.

comparison of the new states of the two phenomena with their former states, in combination with an unchanged state of the accompanying phenomena, falls under the Method of Difference. A simpler illustration of this method cannot, perhaps, be given than the reflection of an object in a mirror: whatever changes the object may undergo are faithfully repeated in the mirror, so that if any doubt existed at first as to the object being the cause of the reflection, the imitation of its changes would remove the doubt.

In politics, this mode of reasoning is often used in combination with the more ordinary uses of the Method of Difference, or in confirmation of them. Thus, if a new effect is traced to new legislation by the Method of Difference, the argument may be strengthened by showing that, when the operation of the altered law is extended, the supposed effect is aggravated, and that when it is contracted, the supposed effect is diminished. The variation of the prices of the public funds according to the stability and solvency of the government, and the abundance of capital, may indicate that they are governed by these causes; the fluctuation of the prices of commodities according to the demand and supply, may prove that they are regulated by the demand and supply; and so on.

§ 12 In all arguments founded upon the Method of Difference (including the two Methods just mentioned), the validity of the inference entirely depends upon the negative fact, that all collateral influences affecting the result are excluded. Unless we know, for example, in considering the operation of a legislative measure, not only that it was capable of producing the new effect, but that *nothing else* has occurred to which the new effect can reasonably be attributed, our conclusion is worthless, and the Method of Difference is deceptive. Hence, it rarely leads to certain results with respect to legislative measures of extensive operation, effecting large changes of policy, and applicable to a wide area and a numerous population. In cases of this sort, so many new circumstances arise to disturb the comparison, and vary the items of the account before and after the change, that the

balance cannot be fairly struck by a simple process of subtraction, even though we may know that the alleged cause is adequate to the production of the supposed effect. In cases such as a political revolution, a change of government or of the system of representation, a general alteration of the criminal code or of the administration of justice, a change of financial or commercial policy or of the currency, a change from war to peace or from peace to war, and other important transitions of the same nature, the Method of Difference can, in general, only suggest causation, and not prove it. In cases of this sort, no cause, even the most active and important, ever acts singly—some allowance must always be made for concurrent causes; their comparative efficiency must be investigated and weighed, and the general result must be summed up accordingly. Even, however, in the most complex cases, the Method of Difference, provided it admits of a certain and easy verification, may be a highly valuable instrument of reasoning: thus, if, on comparing the public expenditure in the years immediately before and after the outbreak of a war, it appeared that a large increase was coincident with the commencement of the war, we should naturally suspect that the war was the cause of the increased expenditure. That suspicion would be converted into certainty, if, upon an examination of the finance accounts, it appeared that the increase was in the expenses of the army and navy. In like manner, if it appeared, upon a similar comparison of the public revenue, that a large diminution was coincident with a year of political revolution and convulsion, we should conjecture that the political commotions were the cause of the diminution. This conjecture would be rendered certain, if, upon consulting authentic accounts, we found that failures in trade, commercial panics, cessation of industry, and diminished cultivation of the soil, were produced by the political insecurity.

The investigation of political causation by the Method of Difference is least liable to error, where the operation of a new cause, *in the same territory*, is in question. Hence it is principally applicable to political events, and to new legislative measures,

inasmuch as, with regard to these, the state of things before and after the occurrence in question can be compared. It is, however, often applied to a comparison of countries which differ in respect of some selected law or institution. Thus, it may be attempted to determine the operation of a poor-law, or of a system of popular education, by taking two countries, in one of which there is a poor-law, or a system of popular education, and in the other there is not. In country *A*, it may be said, there is a poor-law and a prosperous state of the labouring classes; in country *B* there is no poor-law, and the state of the labouring classes is wretched. Hence, by the Method of Difference, it is inferred that the prosperity of the labouring classes in country *A* is the consequence of the poor law. Again: in district *A* there is much popular education, and crimes abound; in district *B* there is little or no popular education, and crimes are rare; hence it is inferred, by the Method of Difference, that the frequency of crimes in district *A* is the consequence of popular education. Again: it may be argued that, because the Catholic religion and general poverty co exist in certain countries (*e. g.* *Ireland* and *Spain*), while the Protestant religion and general wealth co-exist in other countries (as *England*, *Holland*, and the *United States*), therefore the Catholic religion is the cause of poverty, and the Protestant religion is the cause of wealth. Comparisons of this sort, if they undergo a subsequent and separate process of analysis and verification, often lead to important truths. But, without this subsidiary process, they are peculiarly deceptive. The circumstances of different countries, and even of different parts of the same country, are so different, that a mere juxtaposition of this sort, a mere arithmetical or geometrical subduction of one case from the other, can never lead to a sure result. Multitudes of other causes, fully adequate to the production of the result, may exist, of which we take no account whatever: for instance, the circumstances, other than the absence of a poor-law, which might create a wretched condition of the labouring classes, are so numerous, that it would be superfluous to mention any of them. The same may be said of the circumstances, other than popular education, which

might produce a large number of crimes. So there are manifestly many causes, and combinations of causes, besides Catholicism and Protestantism, which might respectively produce general poverty or wealth. Of these possible *other* causes, the method of reasoning in question takes no account. There may be permanent causes in existence fully adequate to the effect, which the argument wholly overlooks.

Now in reasoning, by the Method of Difference, upon the operation of new legislative measures in *the same community*, by the comparison, not of different places, but of different times, the disturbing action of *permanent* causes is excluded. A permanent cause (unless it be momentarily suspended) must produce its effect both before and after the period of change, and therefore, while we confine our comparison to the same region, the only collateral causes against which we have in general to be on our guard are new and *temporary* causes. For example, let an extensive change be made in the commercial laws of a country: soon after the change, an adverse, or a prosperous, state of trade supervenes. In seeking to determine how far this phenomenon may be connected with the change of legislation, as an effect, we may observe, first, that it cannot be owing to any permanent cause which was equally in operation before the new effect had appeared. But it may be owing to some *temporary* cause which came into action contemporaneously with the legislative change, or subsequently to it; and we know that trade is peculiarly liable to such sudden and casual influences. Hence, the inference indicated by the Method of Difference is in this case, unless supported by additional arguments, very weak. But if the change of law relate to some subject not liable to be affected by temporary causes, then any new set of circumstances which may have arisen since the passing of the law—provided they be of such a character that the change of law is an adequate cause for their production—are probably the effect of the change. It is upon this principle that the argument drawn from extraordinary events, such as a famine, pestilence, or invasion, adverted to in a former chapter,⁽³²⁾ rests.

(32) Above, ch. vi. § 8.

It was remarked that events of this kind supply the place of a scientific experiment, inasmuch as they suddenly alter certain phenomena, everything else remaining the same; and thus they throw the same light on the political, as pathological changes throw on the animal economy.

Where temporary causes operate on a large scale (which often happens in economical matters), the comparison of different countries, according to the Method of Difference, may sometimes lead to valuable results. For example, if an increase or diminution in the price of an article of large consumption (such as corn, sugar, timber or cotton) has taken place in any country, it may be doubted whether this change is owing to recent commercial legislation, to the state of the currency, or to variations in the demand and supply. Now if it should happen that this change of price occurs simultaneously in *several* adjoining countries, it may be presumed not to be due to any cause (such as legislation) affecting *one* of these countries exclusively. It is, indeed, possible that the change of price may be owing, in each country, to a peculiar cause, and this possibility must be negated by proper considerations before the argument can be rendered conclusive.

For determining the cause of a given effect, resort may sometimes be had to a logical contrivance, which may be called the hypothetical Method of Differences; that is to say, we may hypothetically exclude certain circumstances in a complex whole, and consider what would be the result of the remainder. For example, let it be assumed that there are three antecedent facts, *A*, *B*, *C*, and a subsequent fact, *a*: the problem is to determine whether *a* be the effect of the three combined facts, *A*, *B*, and *C*, or of any one or two of them. Now we may attempt to determine this causation by supposing *B* and *C* to have been absent, and by considering whether *a* would equally have occurred without them. If it appears that such would have been the case, then we may infer that *A* is the cause of *a*. We may illustrate this method of reasoning, by taking a fall in the prices of agricultural produce as the subsequent fact, and certain measures affecting the currency, certain changes of custom-duties, and an

abundant harvest, as the antecedent facts, to all of which, jointly, the fall of prices is attributed. Now if we exclude, hypothetically, the two first circumstances, and are able to account for the reduced prices simply by means of the latter fact, then we may conclude that it is the true cause. Although this method is not experimental, and is not addressed to the senses, it imitates the experimental method, which proceeds by way of rejection, and by trying separately the constituent parts of a compound whole, so as to watch their effects when subjected to a process of isolation.

From the preceding explanation and examples, it appears that, in politics, every sure inference derived from the Method of Difference implies the exclusion of concurrent causes, sufficient to account for the effect under investigation. It implies, first, that if the comparison be made between two different subjects, either at the same time or at different times, the non-existence of any *other* cause adequate to the production of the effect is ascertained: secondly, that where the comparison is made between the same subject at two successive periods, it is ascertained that no cause, adequate to the production of the effect, has slipped in unperceived subsequently to the first period. Taking our former notation—when *ABC* with *abc* exists in one country, and *ABCD* with *abcd* in another, and we hence infer that *D* is the cause of *d*, we must be certain that no cause, *X*, co-exists in the second country adequate to the production of the effect *d*. Again: when *ABC* with *abc* exists in a certain country, which is followed in that country by *ABCD* with *abcd*, we must be certain that no new cause, *X*, adequate to the production of *d*, has arisen since the first period of the comparison.

In physics, the exclusion of concurrent causes is sometimes effected artificially, by the experimental process. In other physical sciences of mere observation, it exists naturally, as in astronomy, and in most of the phenomena of animal life. The most successful examples of clear demonstrative argument, which adorn the physical sciences, are in those departments of nature where there is singleness of causation. However difficult it may

be to detect the causation—to discover the law which binds together the different phenomena, yet, when it has been discovered, there is no longer any option between different causes. The true cause is, at the same time, the only cause. But when, in physics, there is a plurality of causes—when a given phenomenon may be referred to rival laws, and to a diversity of origins, the reasoning is often as embarrassed, uncertain, and inconclusive, as in any problem of politics. Examples may be found in the discussions on the causes of diseases, and of different morbid states, and particularly upon the causes of contagious and epidemic maladies, as well as on many of the meteorological phenomena. A dyspeptic malady, for instance, may be owing to any of the following causes—excess of food, deficiency of food, bad quality of food, unsuitableness of food, intoxication, excess of labour, want of exercise, mental anxiety, exposure to cold and wet, insufficient clothing, unwholesome habitation, excessive heat. In reasoning upon an actual case of dyspepsia, the physician may be as much perplexed in chusing between these various causes, as a politician or a historian in reasoning upon the cause of a political phenomenon.

In politics, the exclusion of causes by the Method of Experiment is impracticable, and the existence of concurrent causes is always possible ; so that, for all cases of political causation, the Method of Difference requires correction, and subsidiary processes of argument. In physics, however, as well as in politics, where a plurality of causes exists, the causes which may produce the same effect are sometimes not only dissimilar, but even opposite in their nature. Thus, the sensations produced by extreme heat and extreme cold are similar ; and in medicine, similar effects often arise from unconnected and contrary causes.⁽³³⁾ A similar law of causation obtains in the moral and political world. Opposite extremes not unfrequently produce the same result. An over-lax and an over-severe government may both produce dis-

(33) 'Certissimum est, eodem vel simillimos saltem effectus sæpe a causis valde diversis, nonnunquam plane contrariis, oriri.'—Gregory, *Conspectus Med. Theor.* § 1161.

obedience and anarchy. Machiavel remarks that a ruler who makes himself feared may sometimes gain the admiration of the people, not less than a ruler who makes himself loved; and he illustrates this remark by showing how the opposite policies of Hannibal in Italy, and Scipio in Spain, were equally attended with success.⁽³⁴⁾

§ 13 The process by which the Method of Difference, in historical and political discussions, is corrected and applied, receives much light from the mode adopted in courts of justice for investigating a case of (what is called) circumstantial evidence. Let us take the ordinary case of a burglary, and the appearances of a forcible entry into the house. From these appearances all that can be inferred is, that the property lost was stolen by some unknown person, who broke into the house at night. Calling these appearances *a*, we have an indefinite number of possible persons, *A, B, C, D, &c.*, by whom *a* may have been caused. But if we now add another circumstance, *b*, viz., that portions of the stolen property are found soon after the robbery in the possession of *A, B*, and *C*, the *abscissio infiniti* is begun, and we have one of these persons as the probable author of the crime. Taking the effect as *a b*, the authors of it are reduced to three. If we now add a third circumstance, *c*, viz., that the print of *A's* foot is found in several places near the window, we may exclude *B* and *C* as participators in the burglary, and by means of the compound effect, *abc*, fasten the guilt upon *A* alone. Each additional fact is used for the purpose of excluding one or more possible causes, and this process is repeated until the true cause is fully determined. The sum of the circumstances, in a

(34) *Disc.* iii. 21. 'Donde nacque che Annibale con diverso modo di procedere da Scipione, fece quelli medesimi effetti in Italia che quello in Spagna.'

Mr. Caird, in his work *on English Agriculture*, in 1850-51, describes two estates, one of which is abandoned by the best tenants in consequence of its being overlet, while in the other, which is underlet, the tenants are not prosperous or satisfied. 'In these two cases (he remarks) we have the opposite extremes, producing, in the one case, ruin and diminished produce, and in the other indolence and discontent. How nearly alike is the result of conduct dictated by principles so different.'—p. 478.

case of this sort, constitutes the new effect in the Method of Difference; and until that new effect is built up of a number of small items, its cause remains uncertain. As soon as we are able to compare the state of the house, and the property within it, just before the burglary, with the various effects produced by the act of the robber, we see who the robber must be.⁽³⁵⁾

By a similar mode of reasoning, the nature of an internal disease is often determined. Its indications or symptoms are watched, until, by adding one to another, and combining them all together, the circle of possible causes is gradually narrowed, and the true cause of them all is ascertained.

The process by which the infinite number of conceivable causes is first reduced to a finite number, and then the finite number is gradually reduced to one, may be compared with the passing of a substance through a succession of sieves, of increasing fineness, each successive sieve separating a smaller portion than its predecessor; while the true cause, which this process ultimately obtains, by the successive exclusion of the possible but false causes, may be compared with the key which opens a lock, by fitting all its several wards. The logical process by which a writing in cypher is deciphered, or the solution of a riddle or other intellectual puzzle is effected, is likewise similar.

In reasoning back to the unknown cause, from a collection of known phenomena which are presumed to be its effects, it is essential that the argument should not be stated in the form of a series of unconnected syllogisms, each inferring the cause from an isolated effect. By an aggregation of such arguments as these, we can never, logically, infer anything. If, to take the example given by Mr. Thomson, in his *Outline of the Laws of Thought*,⁽³⁶⁾ we infer that because the author of *Junius* wrote a particular hand, and Sir Philip Francis wrote the same

(35) On the conclusiveness of circumstantial evidence, see the remarks of Paley, *Moral and Political Philosophy*, b. vi. c. 9; and on the subject generally, see Wills, *Essay on the Principles of Circumstantial Evidence*, ed. 3; London, 1850.

(36) § 88. All the paralogisms of this class arise from an attempt to prove an universal affirmative in the second figure of the syllogism, which

kind of hand, therefore Sir Philip Francis is the author of *Junius*; that because the author of *Junius* made certain mistakes in correcting proof-sheets, and Sir Philip Francis made the same mistakes, therefore, Sir Philip Francis is the author of *Junius*, and so on, through a succession of minute coincidences, we can never arrive at a conclusion which has any logical value. A thousand such arguments would, to the logician, prove nothing—their sum would resemble the addition of zeros in arithmetic. So if, in a case of circumstantial evidence, we were to reason thus: this man is a murderer, because he was found with blood on his clothes, and murderers have blood on their clothes; this man is a murderer, because the property of the murdered man was found in his possession, and murderers have the property of the murdered man in their possession,—we should never establish a conclusion which had any logical value, and we should, moreover, be liable to much practical error. The argument, in order to be conclusive, must state the several effects in combination, and refer them to a common cause: the cause is inferred from its joint effects, and the strength of the inference depends upon the number and character of the coincidences, which may be so great and so striking as completely to exclude any other cause.⁽³⁷⁾ The argument may be conveniently exhibited in the form of a hypothetical syllogism, as follows, though, if necessary, it might be brought into a categorical form:

‘ If several unconnected circumstances can be explained by supposing them to be the effects of a common cause, that cause may be inferred to be the true cause.

is impossible. According to the scholastic phraseology, it is *barbara* in the second figure.

Mr. Thomson, by introducing two propositions, in which the ordinary rules of predication are not followed, and the predicate is made the exact equivalent of the subject, is able to prove *A* in the second figure in certain cases.—See p. 184, 255.

(37) Mr. Thomson, after enumerating the inconclusive *separate* arguments by which the author of *Junius* is identified with Sir Philip Francis, justly adds: ‘ The results of these, and several similar arguments, are summed up in a syllogism which I think conclusive, to the effect that two persons, who in *so many points* are not found to differ, *must* be one and the same.’—*Ib.* p. 335.

‘ In this case, several unconnected circumstances [viz., a , b , c , d , e , f , &c.] can be explained by referring them to cause A .

‘ Therefore, in this case, cause A is the true cause.’

As in an inductive argument, the force of the inference in any given case depends upon the applicability to it of the hypothetical premise, which can only be determined by extraneous and collateral considerations. Every inductive argument may be similarly stated in the form of a hypothetical syllogism, as follows :

‘ If some individuals of a class possess a certain property, all the individuals of the class possess that property.

‘ In this case, certain individuals [viz., a , b , c , d , e , &c.] of a given class possess the property A .

‘ Therefore, the entire class possesses the property A .’

In any given case, the conclusiveness of this inductive argument will be governed by the extent to which the general law, stated in the hypothetical premise, is applicable to it. This will depend upon the nature of the class, upon the nature of the property, and other circumstances, which can be, and have been, determined with more or less precision by scientific treatment, but which cannot be comprehended in any universal formula. In like manner, the conclusiveness of any inference from a combination of various effects to a common cause, will depend upon the nature of the subject, the number and character of the circumstances, and their joint effect.

In general, the determination of a cause from a multitude of effects is made by a gradual process.⁽³⁸⁾ The first step is to observe a few effects, just sufficient to exclude an indefinite number of possible causes, and thus to reduce the problem to a selection out of a limited number. At this stage, the argument may be stated thus :

A , or B , or C , or D , must be the cause of abc .

When, by adding successively to abc new circumstances, d , e , f , g , and h , we are able to say—

But B , C , and D are not the causes of abc [now become $a \dots h$],

(38) Compare Mr. Mill's remarks on hypotheses, *Logic*, vol. ii. p. 20.

we are in a position to draw the conclusion with certainty, that *A* alone is the cause of *B*.

All questions of circumstantial evidence, whether in history, literature, judicial procedure, or common life, are settled by a process of reasoning conducted upon this model. In each case, the probative force of the circumstances varies with their *combined value*; the circumstances which, separately, are unmeaning or unimportant, acquire a significance and importance when taken together—'quæ non prosunt singula, juncta juvant.' Now this combined value may arise in two ways: it may depend on a few facts, some of which, when taken (so to say) with the context, are highly important, and decisive of the causation. Such was the case of homicide, where a man had been killed by a pistol-shot, and the wadding found near the body was a fragment of a letter, which tallied exactly with another portion of a letter found in the pocket of the accused man. Or it may depend on the accumulation of numerous minute circumstances, each trifling in itself, and deriving strength from their coincidence and mutual adaptation alone, forming a tessellated pattern of proof, clear and distinct in its form, but composed of diminutive fragments. Criminal trials offer frequent examples of the latter sort of circumstantial proof, inasmuch as the prisoner's guilt is often established conclusively by the juxtaposition of numerous facts as to time, place, dress, company, foot-marks, &c., each one trivial in itself, but decisive when combined. An instance of the same sort of proof, in a different subject-matter, is afforded by the ingenious treatise of Mr. Adolphus, written to prove that Sir Walter Scott was the author of the *Waverley Novels*. The number of coincidences indicated between the acknowledged writings and known character of Walter Scott, and the author of the novels, proved that he, and no other person, was the author of them.

In medicine, the symptoms by which a disease is determined are called the diagnostics of the disease, and these are sometimes slight, though numerous—sometimes few, though important. The symptoms of a disease are always its effects, direct or indirect; and in reasoning from symptoms, the inference is from effects

to cause, according to the method just explained. Inasmuch as the most important effects of a disease are often concealed, the physician is compelled to reason from the combination of those effects which are open to his observation. Circumstances likewise, which in one state of things are important, in another are unimportant; because in the one case they indicate the existence of a certain cause, in the other they do not. Thus, nausea or vomiting, under ordinary circumstances, indicates only derangement of the stomach—at sea, it is the effect of the ship's motion; but if it occurs immediately after a fall, it denotes concussion of the brain.

§ 14 Reasoning from *signs* or *marks*, in natural history, often implies nothing more than co-existence without causation, as when we take the existence of a claw, in one of the mammalia, as the mark of a certain formation of the head, teeth, and stomach. This mode of reasoning in comparative anatomy assumes the existence of a coherent system of parts; and the presence of one part serves as an indication of the rest. But in human affairs, the argument from signs almost always implies causation, and is an inference from effect to cause. Thus, if we say that a high price of the funds is a sign of a sound state of national credit, or that a low rate of interest is a sign of the abundance of capital, we imply that a sound state of national credit is the cause of a high price of the funds, and that abundance of capital is the cause of the low rate of interest.

Signs are of the past or of the future;⁽³⁹⁾ that is to say, from a given fact we infer either that a certain event has happened, or that a certain event will happen. Thus, if fragments of a ship are drifted ashore after a storm, we infer that a ship has been wrecked; if the barometer falls, we infer that there will be bad weather. In the former case, we argue from an effect accomplished to a foregone cause; in the latter case, we argue from a similar effect to a continuing cause. All arguments as

(39) As to the argument from signs, see Aristot. *Rhet.* i. 2, § 16; Whately's *Rhetoric*, part i. ch. 2, § 3.

to prognostics, whether natural, such as the signs of weather, or supernatural, as omens or prodigies, are of this nature. Thus, if from the fall of the barometer, or from the appearance of the sky, we infer that there will be rain, our conclusion rests on the assumption, that the cause which has produced a diminished pressure of the barometer, or a cloudy state of the sky, will continue to operate, and will soon produce rain.

Omens, in like manner, were considered as premonitory effects of the Divine displeasure, which was about to visit a country with disaster. It was on this account that a great inundation, for example, or an eclipse, or a comet, was thought to foreshow some national calamity. The event, whether lucky or unlucky, which the omen portended, and the omen itself, were supposed to be successive and combined effects of a common cause, that common cause being the power of the Divine ruler of the universe, who equally guides the course of external nature and the fortunes of men, and who employs remarkable physical phenomena as significations of his present intention, and future dispensations of good and evil to mankind.⁽⁴⁰⁾ Whenever, therefore, a superstitious belief in prodigies and omens exists, there is a misconstruction of rare physical phenomena into signs. An imaginary law of causation being assumed, an occurrence is referred to an antecedent with which it has no real connexion; and the event is thus supposed to indicate a future effect, which would naturally flow from the same cause, supposing it to exist. To infer divine displeasure, and therefore impending calamity, from a comet, an eclipse, or a monstrous birth, is analogous to inferring the commencement of a disease, and its future progress, from an appearance which is not, in fact, a symptom of the disease. Hence, too, as no constant connexion between the omen and the supposed cause is discoverable,

(40) See the speech of *Figulus*, in Lucan, i. 642-50, where this idea is clearly expressed. In the conversation between Socrates and Euthydemus, divination is cited as a proof of the care of the gods for the welfare of mankind, as being a means of warning them of the future.—Xen. *Mem.* iv. 4, § 12.

the interpretation of omens is arbitrary and variable. That which one diviner considers a sign of evil, another may, with equal reason, consider a sign of good fortune.⁽⁴¹⁾

All conventional signs, again, such as words, algebraical or arithmetical symbols, money, signals, &c., are effects of a common design to represent a certain thing in a certain manner; by the assumption of this common cause, we construe all its effects. The value of the conventional sign depends upon the recognition of a common cause.

When an effect has only *one* cause, we reason conclusively from the occurrence of the effect to the occurrence of the cause. When a young bird has been produced, we know that it has been hatched from an egg. But when an effect has *several* possible causes, the existence of the effect only proves the occurrence of some one of those causes. Thus, many plants can be propagated in more than one way, instead of being, like animals, confined to a single mode of reproduction; and therefore, when we see a young plant, we may be uncertain whether it has been grown from a seed, from a cutting, from a layer, from a bud, or in some other way.

This mode of reasoning may be illustrated by the anecdote of a man shipwrecked on an unknown coast, who, on seeing a dead body hanging from a gibbet, expressed his joy that he was in a civilized country.⁽⁴²⁾ If the dead body indicated a capital

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- (41) Quatuor hic, primum omen, equos in gramine vidi
Tondentes campum lato, candore nivali.
Et pater Anchises: *Bellum* O, terra hospita, portas;
Bello armanur equi, *bellum* hæc armenta minantur.
Sed tamen idem olim curru succedere sueti
Quadrupedes, et fræna jugo concordia ferre;
Spes et *paciæ*, ait. *Æn.* iii. 537-43.

Compare Plutarch (*Nic.* 23, *Dion.* 24), where opposite constructions of the prophetic effect of an eclipse, with their reasons, are described. Duplicate interpretations of this sort may be compared with rival jokes about the same subject, such as the two epigrams about the troop of horse, and the present of books sent to the two universities; or with the rival reasons for the choice of the caskets, adduced in the *Merchant of Venice*. In either case, all solid foundation for the reasoning is absent.

(42) This story appears to be borrowed from the following anecdote in Vitruvius:—Aristippus philosophus Socraticus, naufragio cum ejectus ad

execution, and a regular administration of justice, the inference is a just one, inasmuch as, without civilization, such a state of things could not exist. No other cause was adequate to its production.

A similar argument is employed by the Church of Rome, which lays down certain *notes* or *marks* of the true church. These marks are assumed by the Roman divines to be the effects of the divine origin of their church, and to be referable to no other cause. If they could have been the effects of any other cause, the argument would be inconclusive.

Fraud or deceit consists in the intentional falsification of those circumstances which serve as the *signs* or *marks* of something else, and from which the real state of things can be inferred. Sometimes the effects of the true cause are destroyed or concealed, as in the case of a murder or other crime, where the criminal tries to suppress the evidence of his guilt. Sometimes the effects of a false cause are counterfeited, as in the case of a forgery, when the appearance of a genuine coin, or signature, or instrument, is simulated. In the former case, concealment—in the latter, positive delusion or imposture is the object. By the former, we are prevented from discovering the existence of a real cause; by the latter, we are led to believe in the existence of an unreal cause. In the former case, the person who commits the fraud, or practises the deceit, seeks to elude the inference which would be suggested by the Method of Difference, and which would lead to his detection. In the latter case, he fabricates appearances which suggest an inference by the same method; but although the inference is correct, assuming the appearances to be real, it leads to a false conclusion, inasmuch as they are unreal. These remarks illustrate the distinction between the impostor and the hypocrite—between simulation and dissimulation: ‘*Quod non est simulo, dissimuloque quod est.*’ The hypocrite, by suppressing or altering effects, is able to con-

Rhodiensium littus animadvertisset geometrica schemata descripta, exclamavisse ad comites ita dicitur: Bene speremus, hominum enim vestigia video.’—Lib. vi. pref. § 1.

ceal the real cause; the impostor, by counterfeiting effects, is able to create a belief in an imaginary cause.

Sophistry, like fraud, is intended to deceive; but fraud is practical, while sophistry is merely argumentative. The one is intended to influence the conduct, the other merely to influence the belief. This difference may be illustrated by comparing a pecuniary and a literary forgery, the former of which is, for the reason stated, a breach of the criminal law, but not the latter.

§ 15 In the preceding remarks on the application of the Methods of Agreement and Difference, it has been shown that there are two main conditions—one negative, the other positive—for their success:—

1. That concurrent causes should be excluded.
2. That the cause assigned in the individual case should be known, or admitted, to be an adequate cause, generally, of the fact to be accounted for.

When we have *ABC abc*, and *ADE ade*, or *BC bc*, and *ABC abc*, before we infer, by the Method of Agreement or Difference, that *A* is the cause of *a*, we ought to know that there is not some unobserved fact, *X* or *Y*, which is its cause. We ought also to know that *A*, generally, is an adequate cause of *a*. In order to establish this conclusion, a separate argument is necessary. This argument is inductive in its form, and its principal premise is, that ‘whatever is an adequate cause of certain individuals of a class, is an adequate cause of the entire class.’ When this proposition has been established, respecting the class of causes to which the cause under consideration belongs, the two conditions for the validity of the argument have been satisfied. For instance, if the approach of a body of civilized colonists to a territory inhabited by savages, who live by hunting, is found to be followed by their retirement to a distance, although no hostilities are known to have taken place, we may infer that the one event was the cause of the other, provided we are satisfied, generally, that the approach of civilized man is sufficient to drive away savages without the use of force.⁽⁴³⁾

(43) See Tocqueville, *Dém. en Amérique*, tom. ii. p. 281.

Besides the examination necessary for the fulfilment of the two conditions just adverted to, the difficulty of the argument is often further aggravated by the complex nature of the causes, and the number of separate items of which they are composed. It happens, indeed, not unfrequently, that the difficulty of excluding concurrent causes, and the difficulty of constructing a compound cause, pass into one another, inasmuch as different causes of the same effect sometimes act separately, and sometimes in combination. For example: the prices of commodities may be affected by *legislation*—as duties or restrictions on trade—or by an increase or diminution of the supply from *natural causes*, such as an abundant or deficient harvest, or competition in other countries. It may happen at one time that legislative influences—at another, that natural causes—and at a third, that a combination of both, according to some ratio, have affected prices. Again, when the effect is clearly traceable to a combined cause, the proportions of effect due to the several elements of the cause may be doubtful. Thus, it may be certain that a victory is owing partly to the ability and good arrangements of the General, and partly to the courage and discipline of his army; but the share in the result which belongs to either party may be hard to determine. The low condition of the labouring population in a certain district may be owing partly to want of industry, and partly to want of skill; but it may be difficult to assign the true value to each of these constituent portions of the cause.

§ 16 An additional source of error in determining political causation is likewise to be found in the *mutuality of cause and effect*. It happens sometimes that when a relation of causation is established between two facts, it is hard to decide which, in the given case, is the cause and which the effect, because they act and re-act upon each other, each phenomenon being in turn cause and effect. Thus, habits of industry may produce wealth; while the acquisition of wealth may promote industry: again, habits of study may sharpen the understanding, and the increased acuteness of the understanding may afterwards increase the appetite for study. So an excess of population may, by im-

verishing the labouring classes, be the cause of their living in bad dwellings; and, again, bad dwellings, by deteriorating the moral habits of the poor, may stimulate population. The general intelligence and good sense of a people may promote its good government, and the goodness of the government may, in its turn, increase the intelligence of the people, and contribute to the formation of sound opinions among them. Drunkenness is in general the consequence of a low degree of intelligence, as may be observed both among savages and in civilized countries. But, in return, a habit of drunkenness prevents the cultivation of the intellect, and strengthens the cause out of which it grows. As Plato remarks, education improves nature, and nature facilitates education.⁽⁴⁴⁾ National character, again, is both effect and cause: it re-acts on the circumstances from which it arises. The national peculiarities of a people, its race, physical structure, climate, territory, &c., form originally a certain character, which tends to create certain institutions, political and domestic, in harmony with that character. These institutions strengthen, perpetuate, and reproduce the character out of which they grew, and so on in succession, each new effect becoming, in its turn, a new cause. Thus a brave, energetic, restless nation, exposed to attack from neighbours, organizes military institutions: these institutions promote and maintain a warlike spirit: this warlike spirit, again, assists the development of the military organization, and it is further promoted by territorial conquests and success in war, which may be its result—each successive effect thus adding to the cause out of which it sprung.⁽⁴⁵⁾

§ 17 In conducting the subsidiary processes of investigation, which serve to exclude error and fortify the inference, in

(44) *Rep.* iv. 3, p. 424. Καὶ μὲν, εἶπον, πολιτεία τὰν περ ἅπαξ ὁρμήσῃ εὖ, ἔρχεται ὥσπερ κύκλος αὐξανόμενη τροφή γὰρ καὶ παιδεύσεις χρηστὴ σωζομένη φύσεις ἀγαθὰς ἐμποιεῖ, καὶ αὐτὴ φύσεις χρησταὶ τοιαύτης παιδείας ἀνταμιβαλλόμεναι ἐτι βελτίους τῶν προτέρων γίνονται.

(45) 'It appears that popular songs are both the cause and effect of general morals; that they are first formed, and then re-act. In both points of view, they serve as an index of popular morals.'—Miss Martineau, *How to observe*, p. 134.

the Methods of Agreement and Difference, much often depends upon the *number* of cases which are examined and compared. In physics, the multiplication of experiments is, in general, only necessary for the purpose of verifying the process, for a single instance serves as a perfect sample of the entire class. For purposes of scientific inquiry, one piece of gold or zine, one piece of carbonate of lime, or sulphate of magnesia, represents all other pieces of these substances. The accumulation of instances, in a case of this sort, would therefore be nugatory. The experimental method so completely excludes all extraneous phenomena, and reduces the phenomena under investigation to so elementary a form, that a single instance suffices as a foundation for a universal law of nature. In politics, this precision is, in general, unattainable, and hence the advantage of multiplying instances, where it is possible.

Where the effect under investigation is a single historical event, such, for example, as the conquest of Mexico, or the abdication of James the First, the multiplication of instances is impossible. The problem is necessarily limited to the circumstances, together forming the cause which produced that event. But in investigating the causation of a complex phenomenon, such as a legislative system, or a permanent social state, the multiplication of instances is practicable, and is often useful. The operation of a given law, or other political influence, may be observed in many different places, and under different circumstances, and a comparison of these instances cannot fail to be instructive. For example, if a certain law, together with a certain phenomenon, of which that law is an adequate cause, are found to co-exist in a large number of cases, under a vast variety of circumstances, a strong presumption arises, according to the Method of Agreement, of the one being the cause of the other. On the other hand, if the number of cases were small, and the accompanying circumstances in each case not dissimilar, the presumption would be weak. Even in the former case, an analysis of the surrounding circumstances would be necessary to render the argument conclusive ; but a multiplication of instances would greatly assist this analysis, by varying the ambient medium, and

thus diminishing the probability of the co-existence of a latent but true cause. A similar remark applies to inquiries into the operation of extensive political causes, conducted according to the Method of Difference. If a new phenomenon appears in a single spot, soon after the introduction of a new law, or some other political change, it may, by the Method of Difference, be attributed to this cause: now, by multiplying instances, and observing whether, in other places, the political change in question has been attended with this effect, we may probably succeed in eliminating accidental coincidences, and, by varying the circumstances, reduce the case to one of causation. Arguments founded on statistical data are generally of the nature just described. Whether conducted according to the Method of Agreement, or the Method of Difference, they attempt, by the multiplication of instances, to exclude collateral causes, and thus to determine true causation, some subsidiary arguments and methods of precaution being at the same time employed. This process is analogous to the elimination of chance, by multiplying the number of instances examined. Thus, if we take a single family, we may often find that five or six consecutive births are of the same sex; but if all the births in a considerable district are included, it will invariably be found that the births of the two sexes are nearly equal, the male births preponderating by about four per cent. In like manner, if we take a few throws of the dice, or a few deals at cards, the gain or loss of the player is quite uncertain; but by increasing sufficiently the number of throws or deals, the influence of chance is neutralized, so that the keeper of a gaming-table, who secures a certain per-centage of the chances in his own favour, invariably gains in the long run.⁽⁴⁶⁾

(46) 'The law of individual cases is, that there shall be marked differences; of the masses, that there shall be great approach to uniformity.'—De Morgan's *Essay on Probabilities*, p. 118.

The elimination of chance by the multiplication of instances, must not be confounded with the elimination of error by the multiplication of observations. In the former case, each observation is correct; in the latter, each observation is erroneous. In the former case, different things are observed; in the latter, the same thing is observed, but there are many observations.—See above, ch. v. § 13; and Mill's *Logic*, b. iii. ch. 17.

An inductive argument as to causation, in which the inference is extended from a few instances to the entire class, resembles *assaying*, in which a portion of the precious metal is carefully analysed, with a view of determining its fineness: and this result, when obtained, is extended to all other portions of metal similarly situated. The process has to be repeated for every portion of metal which has, or is likely to have, a different degree of fineness. Again, the same argument may be compared with those trades, in which the buying and selling is carried on by means of *samples*, *specimens*, or *patterns*. A factor exhibits a sample of corn on the corn exchange, and undertakes to deliver so many quarters of the same quality. The same process is followed for spun or woven articles, or other manufactured goods which can be produced according to a model.⁽⁴⁷⁾

In determining causation for an entire class from a few instances, everything depends upon the fidelity with which they represent the entire class. If they are taken at random, a very small number will rarely serve as the foundation of a safe inference; but if the cases are selected in such a manner that they may fairly be considered as a sample of the whole, the inference holds good.⁽⁴⁸⁾ Thus, Cicero mentions that the decision of the

(47) Akenside thus describes, in verse, the method of an inductive argument:—

' For each wide family some single birth
He sets in view, the important type of all
Its brethren; suffering it to claim, beyond
Their common heritage, no private gift,
No proper fortune. Then whate'er his eye
In this discerns, his bold unerring tongue
Pronounceth of the kindred, without bound,
Without condition.' *Pleasures of Imagination*, b. 2.

(48) The relative value of averages derived from different numbers of observations has been investigated by Dr. Guy, in the *Journal of the Statistical Society*, vol. xiii. p. 30-45, who arrives at the following results:—

1. That the range or difference between the greatest and least average, derived from successive groups of small numbers of facts, is very considerable, but that it diminishes rapidly as the number of facts increases.

2. That the rate of approximation of the extreme values varies with each different order of facts, and that it does not appear to be amenable to any numerical law.

3. That the greater the number of the elements which determine the

tribe which had the *prærogativa*, or the right of voting first, always indicated the decision of the other tribes: the number of citizens included in a tribe was so great, and the selection was made in such a manner, that the suffrages of that number of citizens were a fair representation of the opinions of the entire free community.⁽⁴⁹⁾ On the other hand, the number of cases may be too small, or too uncertain in their selection, to justify the inference that they are a part homogeneous with the whole.

The maxim of evidence adverted to in a former chapter,⁽⁵⁰⁾ '*mendax in uno præsumitur mendax in alio*,' affords another instance of this mode of inductive extension, and of the necessity of analyzing the nature of the instance on which the argument is founded. There may be false statements in the evidence of a witness, of such a nature as not to justify the inference that the rest of his evidence is false. On the other hand, if a deliberate lie, in a material point, is detected in any deposition, the veracity of the witness is successfully impeached, and the credibility of the rest of his evidence is either destroyed or seriously shaken.

In practical politics, a large part of that skill which is derived from special knowledge and experience, consists in judging how many instances may serve as fair specimens of a class; which cases are exceptional and accidental, and therefore of minor importance; which are indicative of a prevailing and general state of things, and therefore require a closer attention. When a

occurrence of the events, that, when thrown into groups, constitute the materials of our averages, the greater should be the number of our facts.

4. That though the possible error to which a given small number of facts is liable is very large, there is always a fair probability in favour of any particular average coinciding with, or approaching very closely to, the true average.

5. That the formulæ of the mathematician have a very limited application to the results of observation; and that, if incautiously applied, they may lead to very grave errors.

6. That though averages derived from large numbers of facts are worthy of much greater confidence than those founded upon small numbers of facts, the latter class of averages are by no means to be rejected as useless, but should be employed as probabilities of greater or less value, as the number of facts is larger or smaller.

(49) *Pro Planc.* 20.

(50) Above, ch. vii. § 16.

man, on the one hand, never judges hastily from an insufficient number of cases, and mistakes exceptions for samples; when, on the other, he never carries on his inquiries after the true character of the class has been clearly determined, and continues to investigate cases when those already examined have sufficed to ground an inductive extension to the entire class; when he never snatches a rash opinion from a rapid glance, nor goes plodding on with a barren examination of particulars, when the truth is already before his eyes,—his practical judgment may be said to have attained a high pitch of perfection.

All control, supervision, and management, both in public and private life, is conducted upon this principle. No man can watch every act, direct every movement, or verify every item of account, in those who are placed under his authority. The efficient exercise of his functions, whether he be charged with the administration of a public department or establishment, or of a private household, is to carry his examination so far, as to have a reasonable assurance that the facts which he ascertains fairly represent those which he does not ascertain, and that he selects such parts for his personal inquiries as enable him to know the whole.

§ 18 At the same time, too much cannot be said against that popular abuse of the Method of Agreement denounced with so much emphasis by Bacon, which infers causation from the mere juxtaposition or coincidence of two facts in several cases within a man's personal experience; which, by a simple enumeration of circumstances,⁽⁵¹⁾ without subjecting them to any preliminary or ulterior process of analysis, at once blindly concludes that they are related by a law of constant sequence. It is from such inferences as these, that the great majority of

(51) 'Inductio mala est, quæ per enumerationem simplicem principia concludit scientiarum, non adhibitis exclusionibus et solutionibus sive separationibus naturæ debitæ.'—*Nov. Org.* i. 69. 'Inductio quæ procedit per enumerationem simplicem, res puerilis est, et precario concludit, et periculo exponitur ab instantiâ contradictoriâ, et plerumque secundum pauciores quam par est, et ex his tantummodo quæ præsto sunt, pronunciat. At inductio, quæ ad inventionem et demonstrationem scientiarum et artium erit utilis, naturam separare debet, per rejectiones et exclusiones debitas;

popular and prevalent errors upon political questions originate. As Mr. Mill remarks :⁽¹²⁾ 'The tendency of unscientific inquirers is to rely too much upon number, without analyzing the instances; without looking closely enough into their nature, to ascertain what circumstances are or are not eliminated by means of them. Most people hold their conclusions with a degree of assurance proportioned to the mere *mass* of the experience on which they appear to rest: not considering that by the addition of instances to instances, all of the same kind, that is, differing from one another only in points already recognised as immaterial, nothing whatever is added to the evidence of the conclusion. A single instance eliminating some antecedent which existed in all the other cases, is of more value than the greatest multitude of instances which are reckoned by their number alone.'

It is a capital error to suppose that any multiplication of instances will suffice, if the other necessary safeguards against paralogism are not adopted. In general, however, it happens that the inferences drawn by the unverified Method of Agreement are not founded upon a very wide experience. Very frequently they are cases which have fallen accidentally within the observation of a single man, and neither are derived from an exhaustive enumeration, nor have been selected with scientific judgment; as Bacon says of this arithmetical species

ac deinde post negativas tot quot sufficiunt, super affirmativas concludere.
—*Ib.* i. 105. See also, i. 46.

Compare the *Distributio Operis*, vol. ix. p. 167; and the *Partis Institutionis Secundæ Delineatio*, vol. xi. p. 164, where this passage is in part repeated. See also Mr. Mill's comment upon it, *Logic*, b. v. c. 5, § 4.

In lib. ii. aph. 15 and 16, Bacon further insists upon the necessity of a negative process in induction. In the latter aphorism he says: 'Est itaque inductionis veræ opus primum (quatenus ad inveniendas formas) rejectio sive exclusiva naturarum singularum, quæ non inveniuntur in aliquâ instantiâ, ubi natura data adest; aut inveniuntur in aliquâ instantiâ, ubi natura data abest; aut inveniuntur in aliquâ instantiâ crescere, cum natura data decrescat; aut decrescere, cum natura data crescat. Tum vero post rejectionem et exclusivam debitis modis factam, secundo loco (tanquam in fundo) manebit (absentibus in fumum opinionibus volatilibus) forma affirmativa, solida, et vera, et bene terminata. Atque hoc breve dictu est, sed per multas ambages ad hoc pervenitur.'

As to the *inventio formarum* (which Bacon makes the end of all human knowledge), and the meaning of *forma*, see lib. ii. aph. 1-4.

(52) Vol. i. p. 510.

of induction, '*Plerumque secundum pauciora quam par est, et ex his tantummodo quæ præsto sunt, pronunciat.*'⁽⁵³⁾ Hence we may observe the proneness of people to generalize cases which have occurred to themselves, to one of their own family or friends, or to an inhabitant of their own neighbourhood. Without attempting any analysis of the circumstances, they pronounce confidently from some complex but undissected case, and infer from it a general law of causation. Thus, they not unfrequently reason as to the treatment of a disease from the apparent efficacy of a cure in a single case, or in a few cases, forgetting the obscurity of the antecedents in such an instance, and the necessity of observing the same mode of treatment upon a large scale, before any confident judgment is formed. Thus, too, in judging of political matters, they sometimes assume that a complex law or institution is incapable of separation, because their experience has only exhibited its elements to them in a combined form; and hence they attribute to the whole, an effect which is in fact due exclusively to one of its parts. Accordingly, a person might suppose that the oral examination of witnesses is a result of the system of trial by jury, or that the spectacle of an execution is the necessary effect of capital punishments: not having been accustomed to see them divided, it might not occur to him to consider that witnesses may be examined orally in open court, where the judge decides without a jury; and that capital punishment may be inflicted without the ceremony of a public execution.

It might be thought that the proneness to generalize rapidly from a few instances is a sign of a philosophic and reflecting mind. On the contrary, it is the characteristic of the vulgar. There is a prevailing tendency to the incautious use of the in-

(53) Compare also his remarks in the *Parascæus ad Historiam Naturalem*:—'*In historiâ quam requirimus et animo destinamus, ante omnia videndum est, ut late patent, et facta sit ad mensuram universi. Neque enim arcandus est mundus ad angustias intellectûs (quod adhuc factum est), sed expandendus intellectus, et laxandus, ad mundi imaginem recipiendam, qualis invenitur. Istud enim respicere pauca, et pronunciare secundum pauca, omnia perdidit.*'—vol. xi. p. 415.

ductive argument from one or a few cases to the entire class, without the necessary safeguards. This is noticed by Aristotle, who uses it to account for the pleasure taken by ordinary and uneducated hearers in the sweeping affirmations of an orator, who lays down as a general apophthegm what they have observed partially. If a man has had neighbours or children, he derives much pleasure from hearing it announced that no evil is greater than a bad neighbour or a bad child.⁽⁵⁴⁾

Many of the generalizations of speculative politicians with respect to the *tendencies* of certain political forms—in other words, their fitness to produce certain effects—have been formed in this manner. Certain phenomena have been observed in connexion with a certain form of government, or a certain political system, in a given country, and from that single instance it has been inferred, that the form of government or political system with which they co-exist is their *cause*, and that they are its *effect*. This mode of reasoning (which will be illustrated at length in a future chapter),⁽⁵⁵⁾ is in fact nothing more than a feeble application of the Method of Agreement, supported, perhaps, by a few subsidiary arguments, and sometimes by an ineffective use of the Method of Difference, as in the example of comparisons of different countries, stated above.

§ 19 As, in cases of this description, the error of reasoning arises from the neglect or misapplication of the negative process of rejection or exclusion, so forcibly inculcated by Bacon, it will be proper to inquire further into the manner of employing this process. Bacon specifies the following three modes of its application:—

1. Certain circumstances are absent in an instance where the phenomenon is present.

2. The phenomenon is absent in an instance where the circumstances are present.

3. The circumstances increase where the phenomenon decreases; or the converse.⁽⁵⁶⁾

(54) *Rhet.* ii. 22, § 15.

(55) Below, ch. xv. § 5.

(56) See *Nov. Org.* ii. aph. 16, cited above, n. 51.

According to the notation which we have used above, these three modes of investigation by rejection may be exemplified thus:—First, if we have ABC and abc , ADE and ade ; and we suspect from this coincidence that A is the cause of a ; then, if we afterwards find FGH and $afgh$, we are deterred from inferring that A is the cause of a . For instance, if plague or typhus occurs in several places, under circumstances suggestive of contagion or infection, but it occurs in another place under circumstances which exclude the possibility of contagion, we reject the inference that contagion or infection is the cause of plague or typhus. So if, from the prevalence of cholera in many parts of a large town, where the practice of intramural interment obtains, it is inferred that intramural interment is the cause of cholera, this argument would be invalidated by the prevalence of cholera to an equal or greater degree in another large town, where the practice of intramural interment does not obtain. Again, let it be argued, from the co-existence of poor-laws and prosperity of the working classes in several districts, that the former is the cause of the latter: the occurrence of prosperity of the working classes in a single district without poor-laws would negative this inductive conclusion, by showing that it is not a necessary cause. Where an effect has many causes, it may be due to different causes at different times and places; hence, infection may be in one instance the cause, or part of the cause, of plague or typhus; poor-laws may be in one instance the cause, or part of the cause, of the prosperity of the working classes; while, in other instances, the effect may be due to wholly different antecedents. Wherever there is a plurality of causes, the existence of a case where the effect under investigation is unaccompanied by its supposed cause, destroys the force of the merely inductive argument.

Secondly, if we have ABC and abc , ADE and ade , and we suspect from this coincidence that A is the cause of a ; then, if we find an instance, AFG and fg , we abstain from inferring that A is the cause of a . Thus, if circumstances productive of contagion or infection co-exist with several cases of plague or typhus, whence we are inclined to infer that contagion or infec-

tion is the cause, but we find other instances in which those circumstances have been present, and no plague or typhus has supervened, we abstain from drawing the conclusion. So, if the co-existence of poor-laws and prosperity of the working classes in many places inclines us to infer that the former is the cause of the latter; then, if we meet with instances in which poor-laws exist, but the condition of the working classes is miserable, we pause in our conclusion.

But it is to be borne in mind that, in estimating negative instances of the latter sort, due allowance must be made for the *occasional frustration of causes*. Where, as in the last case, we have the antecedent AFG and the consequent fg , without a , we are arrested in our general inference that A is the cause of a , unless it can be shown that A was prevented, by some special reason, from producing a in the latter instance. Thus, let Z be a special influence obstructing the operation of A , and repressive of a ; then if, in the latter instance, we have AFG and Zfg , it is still possible that A may be the cause of a . For example: it might be argued, from the occurrence of several cases in which the absence of high import duties and of commercial restrictions was accompanied with abundance and cheapness of commodities, that the former was the cause of the latter. Certain instances might then occur, in which the former existed without the latter; but each of these exceptional cases might be accounted for, by showing that there was a special circumstance, such as a deficient supply, or interruption of intercourse by war or blockade, which partially obstructed, and for a time suspended, the operation of the former cause. Again: it might be shown, by the evidence of facts, that the operation of a new law had been generally beneficial, with the exception of certain districts, where its enforcement had been prevented or retarded by certain peculiar and accidental circumstances. Exceptions of this kind, which admit of an adequate special explanation, serve rather to confirm the general inference than to weaken it; inasmuch as they raise the presumption that, but for the partial obstruction to the cause, it would have operated in these as in the other instances, where no obstruction existed.

It is probably from observing this case of the problem of causation, that the popular error has arisen of supposing that a rule is sometimes proved by its exceptions.⁽⁵⁷⁾ Every exception to a general proposition must, in so far as it is an exception, detract from the application of the proposition, and consequently disprove it. Thus, if it were asserted that all cloven-footed animals ruminates, this assertion certainly would receive no confirmation from the fact, that certain cloven-footed animals—such as the hog—do not ruminates. If, however, the exception, as in the case which we have been examining, admitted of a peculiar explanation, and it could be shown that the *nisus* or tendency of the cause was the same in the exceptional as in the other instances, but that in the former it was counteracted and overcome, while in the latter it was not—then the exception may be said not to invalidate, but rather to confirm the rule.

It is further to be observed, that the operation of a political cause may not be wholly frustrated, but its effects may be curtailed, weakened, or modified by other influences. Thus, the tendency of a body to move perpetually in a straight line when force is applied to it, may, instead of being overcome at the beginning, so that motion never takes place, be exercised for a certain distance, but may soon yield to various impediments. In like manner, a political cause may operate to a certain extent, but its operation may be partially frustrated. In fact, it rarely happens that any cause in politics acts with perfect freedom, and without any check or obstacle.

(57) The maxim *exceptio probat regulam* appears to be a mutilation of a rule of legal construction, laid down by Lord Bacon in the 8th book of his treatise, *De Augmentis Scientiarum*, aph. 17, vol. ix. p. 88;—'Nam ut exceptio firmat vim legis in casibus non exceptis, ita enumeratio firmat eam in casibus non enumeratis.' This is a recognised rule of construction for statutes; for example, if an Act of Parliament for prohibiting cruelty to tame animals were to make a special exception of *cats*, this would raise a presumption that *dogs* were not meant to be excepted. Speaking of the modes of counting inclusively or exclusively of the extremes, Mr. de Morgan says: 'There was no confusion as to this matter of old; for the reckoning always included both its terms or endings, unless otherwise distinctly specified. Whenever it did not do so, the exception required statement. In matters of law, an extension was sometimes admitted by way of privilege, where the usual interpretation would involve penalty or forfeiture; but the distinctness with which this is stated causes the exceptions to confirm the rule.'—*Comp. Alm.* 1850, p. 12.

It is on account of the frequent occurrence of obstruction of causes that it is difficult to obtain a perfectly decisive negative instance in politics ; such an instance as would deserve to receive Bacon's designation of an *instantia crucis* ;⁽⁵⁸⁾ that is to say, a case which, when you are hesitating at a cross-road which way to take, points unambiguously to the one or the other. In individual cases, such a conclusive test, such a method of guiding our course by a certain indication, can often be found ; thus, if a crime has been committed, and upon the first examination the appearances are strong against two persons, *A* and *B* ; additional facts may subsequently be discovered, which exonerate *A* and fix the guilt on *B*. These additional facts serve as the *instantia crucis*, the logical finger-post, to point out the right conclusion. But when the operation of a political cause acting on a large scale, such as a commercial or financial system, or a mode of administering justice, is in question, the negative instances cannot be relied upon without further investigation ; because the action of the cause may in these cases have been overmastered by more powerful counteracting influences.

We may here remark, that the argument from frustration of causes is sometimes inverted ; and that when some effect has been produced which would probably have been frustrated by the operation of another cause, if that other cause had acted in the manner which is alleged, we infer that the latter cause has not the operation attributed to it. A cause is alleged to produce a certain effect : now if it produced that effect, it ought to frustrate a certain other effect ; but it has not frustrated that other effect—therefore it does not produce the effect supposed. This, again, is a negative test to which instances of alleged causation can sometimes be subjected : the anti-commercial argument, for making each country independent of supply from other nations, is impugned in this manner. The argument rests on the assumption, that trade will be interrupted by war, and can only be maintained during hostilities by decisive naval and

(58) *Nov. Org.* ii. aph. 36.

military superiority. This assumption is negated by an appeal to cases, in which the ordinary relations of trade have continued in spite of war, and without the protection of superior force. It was by the same argument that political economists were led to question the paramount importance attributed by writers on government to the respective influence of monarchy, aristocracy, and democracy. In tracing the operation of an economical cause through different countries, under dissimilar governments, they found that it generally produced the same effect. Hence they inferred that, if the influence of the several forms of government was as great as it was supposed to be, it would mould the operation of this cause according to their respective characters.

The third and last case of the negative process pointed out by Bacon may be called the argument from Inverse Variation : it is exactly the opposite of the Direct Method of Variation explained by Mr. Mill. When two things vary directly as one another, the latter method infers causation, or dependence upon a common cause, and obtains a positive result ; but when two things vary inversely as one another, they appear as antagonistic phenomena, or as connected with some joint influence acting upon them in contrary directions ; and therefore a mutual or common causation is negated. Thus, if we find that the greater the sun's heat, the less is the moisture on the earth's surface ; or that the greater the elevation of land, the more scanty and meagre is its vegetation,—we perceive that these phenomena are not connected as cause and effect. When the mechanical law is enounced, that bodies gravitate to each directly as their masses, and inversely as the square of their distances, it is meant that, while the magnitude of a body is a cause promotive of mutual attraction, distance is a circumstance which is antagonistic to it. So in politics : if one phenomenon varies inversely as another ; if crimes diminish in proportion as the police is efficient—it follows that the two phenomena have no common relation of causation.

§ 20 Besides the methods which we have been considering, another method of investigating facts, which may sometimes be

applied to the determination of causes, may be called the *Method of Continuous Comparison*.⁽⁵⁹⁾ It consists in arranging a series of adjacent or contiguous cases in a graduated scale; in comparing the points of resemblance and difference, as these successively increase or diminish in the connected system, and in determining the causes of these variations. The great pattern of this method of reasoning is afforded by comparative anatomy and physiology, in which class of subjects the changes of the corresponding organs or functions are traced through a graduated series of animated and organized beings. In politics, this method may be applied to the examination of a series of adjacent cases, each conterminous with the succeeding one, and passing into it by an insensible and evanescent line of demarcation, like the bands of colour in the rainbow. Thus, the characteristics of different forms of political government may be investigated by beginning with a municipal body; then proceeding to a dependency under the strict control of the paramount state; next to a semi-dependent province; afterwards to an independent but tributary state; thence to a state wholly independent. The approximations between the characteristics of the successive cases serve to afford mutual illustration.

The progressive nature of political institutions affords frequent opportunities for the application of this method. Thus, an institution (such, for example, as criminal judicature, or political representation) may be taken in its rudest form, and traced through a series of modifications, either in the same country, or in different countries, until it reaches the most perfect form to which successive trials and recent civilization have brought it. Such a process of inquiry may be compared with the method of the naturalist, who traces a certain organ, such as the stomach,

(59) This method is placed by M. Comte under the head of observation.—See above, p. 108, n. 3. Compare Bacon (*Nov. Org.* ii. aph. 41), who, in speaking of his *Instantiæ Articulate*, says: ‘Eæ sunt, quæ indicant naturæ motus gradatim continuatos. Hoc autem genus instantiarum potius fugit observationem, quam sensum. Mira enim est hominum circa hanc rem indiligentia. Contemplantur siquidem naturam tantummodo desultorie et per periodos, et postquam corpora fuerint absoluta ac completa, et non in operatione suâ.

or the respiratory process, through a series of animals arranged in an ascending or descending scale.

§ 21 We have already had occasion to remark that, in the application both of the Method of Agreement and the Method of Difference, the experimental sciences possess an important advantage in their power of excluding all collateral causes, which is wanting in politics. On the other hand, politics, and the other sciences relating to man, possess an important aid for the investigation of causes not shared by any physical science, to which we have adverted in a former chapter.⁽⁶⁰⁾ This consists in the *testimony of the agent himself*. Causation in politics resolves itself into human agency; and for the true interpretation of human agency, no better means can be found than the declarations of the agent himself, where he is willing to disclose the truth. This is the source of our information with respect to the causes of a large number of historical and political facts; and it affords an important, if not an equivalent, compensation for the loss of the Experimental Method. The voice and the pen of man, endowed with action, thought, observation, and memory, supply the place of the answers obtained by the experimenter from the interrogation of insentient and speechless nature.

§ 22 We have likewise, in a former part of this chapter, had occasion to point out the connexion which exists between causation in human action, and moral responsibility or blame. This is a subject which belongs properly to ethics and jurisprudence; but it has too important a bearing upon political causation to be passed over in this place without further notice.

When the acts of any man are the substantial cause of an effect, when the antecedents necessary to the production of a certain result are all under his control, and have been set in motion by him, either with a view of bringing about that end, or with a knowledge that it would ensue, then we hold him morally, or even legally responsible—we say that he is guilty, that the grounds of imputation attach to him, and we visit him with

(60) Above, ch. vi. § 5.

blame, censure, or punishment accordingly. In some cases, however, the fault consists, not in the procuring a certain end, but in omitting to do a certain act by which some other end would have been accomplished. In this case, the blame attaches to the non-performance of the act, and to the consequent production of an effect which that act would have averted; as when the absence of a watchman, or of a sentinel from his post, leads to a house being robbed, or an army being surprised.

All moral guilt or responsibility involves causation: it implies that the effect was due to the agency or the neglect of the guilty person, and that he was the author of it, either positively or negatively. If the circumstances were not within the control of the agent; if he did not so dispose the conditions necessary for the completion of the act as to bring it about, or if he had it not in his power to use the means fitted to prevent a certain result, the measure of his guilt would not be complete—the grounds of imputation would not be established. Again, the agent may not be able to command all the conditions necessary for success; but some unforeseen obstruction may prevent his design from being completed, and may reduce it to an *attempt* to commit the act. In this case, the legal punishment may be less, but the moral guilt of the agent, so far as it consists in the desire to set in motion all the means requisite for his purpose, is the same.⁽⁶¹⁾

Hence, in politics, as well as in ethics and in jurisprudence, he who is the cause or author of anything is responsible for it, and is subject to whatever censure, liability, or punishment, is due in respect of it. The nation which originates or causes a war is answerable for that war, and must bear the consequences

(61) From the connexion of *causation* and *guilt*, or *blame*, the Greek word *aitia* has both senses. Thus, the words of Priam to Helen, *οὐτὶ μοι αἰτίη ἐστὶ, θεοὶ δὲ μοι αἰετοὶ εἰσι* (*Iliad*, iii. 164), might be translated either—‘You are not the cause of the war, the gods are the cause of it;’ or, ‘I do not blame you for the war, I blame the gods for it.’—*Causator*, in Latin, likewise signifies to blame. Speaking of the crossing of the Rubicon by Cæsar, Lucan says:

‘Urgentes addunt stimulos, cunctasque pudoris
Rumpunt fata moras: *justos* fortuna laborat
Pese ducis motus, et *causas* invenit armis.’—i. 263-5.

of its responsibility. Thus Polybius, as we have seen, considers the Romans as substantially the authors of the second Punic war, and therefore as blamable for the renewal of hostilities between the two republics. On the other hand, where the effect produced is beneficial, the credit is due to the authors, and hence rewards, honours, panegyrics, and other marks of approbation, are bestowed upon those who originate or cause any national benefit, such as improvements in legislation, military and naval victories, and the like. The determination of praise or blame, of reward or punishment, of the seat of responsibility or merit, in politics, as well as in other departments of human action, therefore involves the determination of causes. To treat a person as the cause of any event is, according to the circumstances of the case, to entitle him to praise or blame.

§ 23 As all our judgments concerning moral responsibility, and praise or blame, imply a decision of the question of causation, and as the main object of a narrative of human actions, not only in political history and biography, but even in fiction, is to exhibit the merits and demerits of the several agents, it is clear that all narration must imply an explanation of causes. The general characteristics of narration have been collected in a former chapter;⁽⁶²⁾ and we have ascertained that the narration of political history implies a connected series of successive events relating to the same community. Now the connexion which narration implies is the connexion of cause and effect. Every link which is essential to the chain of a narrative—which constitutes its connexion—and which is not descriptive matter introduced merely for the sake of illustration or ornament,—is either the cause of a succeeding effect, or the effect of a preceding cause, or it is the condition, that is a *part* of the cause, of a succeeding event. Any narrative, when examined, will be found to be resolvable into these elements. For example, if we say that Xerxes, after having been defeated at the sea-fight of Salamis, retreated, with a large portion of his army, from Attica along the

(62) Above, ch. v. § 5. On the causal connexion of history, see Rotteck, *Allgemeine Geschichte*, introd. § 9.

northern coast of Greece to the Hellespont; that, on his arrival there, he found the bridge of boats broken by a storm; that he and the remnant of his army were carried over in ships, the fleet having in the meantime joined him; and that he then continued his march to Sardis: this, though a short, is manifestly a connected narrative, and its connexion is to be thus explained in detail. The defeat at Salamis is the cause of the retreat of Xerxes from Greece; and he retreats by land because the Greeks are masters of the sea. He and his army cross the Hellespont in ships, because he finds the bridge broken, and his own fleet had joined him; these two events are the joint cause of his mode of transport; lastly, his transport across the Hellespont enables him to reach Sardis in safety. It will be seen, therefore, that the connecting links in this narrative are all causes or conditions of succeeding events; and that this mutual relation of its several parts constitutes the unity of the action. We may take as another example the following narrative from the apostolic history.

‘When Paul was at Jerusalem, the people, offended by his doctrine, made a tumult, and were about to kill him. The Roman officer came with troops to quell the tumult, carried away Paul prisoner, and lodged him in the castle, from the staircase of which he addressed the people in justification of his conversion to the Christian faith. The people, however, cried out the more against him, and the Roman officer, in order to ascertain the truth, was about to flog him, when Paul claimed his privilege of Roman citizenship. The officer allowed the claim, and sent him before the Sanhedrim.’ Here, again, each step in the narrative is connected, either as cause or condition, with those which follow. The popular anger at Paul’s teaching gives rise to the tumult, and the attempt to put him to death. The tumult calls forth the interference of the Roman officer, and his desire to investigate the truth leads to his intention to subject Paul to the torture. This announcement causes Paul to set up his rights of Roman citizenship as a protection against this mode of examination; and the claim being admitted, the Roman officer in consequence remits him to the jurisdiction of the native council.

Certain portions of a narrative may be expanded by the addition of illustrative or decorative adjuncts : for example, the historian may contrast the appearance of Xerxes, on his return to the Hellespont, with his appearance when he crossed it from Asia, and may moralize on the reverse of fortune ; or, in the account of St. Paul, he may illustrate the rule of law which prevented the Roman officer from subjecting him to torture for purposes of judicial investigation ; but all that is essential to the narrative—the bony skeleton which holds the organism together—is so much as deduces the causation of the consecutive events. Much, it is true, in a narrative consists of successive steps, which stand to one another as the conditioning and conditioned facts, rather than as cause and effect, in the ordinary acceptation of the words. They resemble successive stages in a journey, each one of which must be travelled over before the next is reached ; but the completion of one stage is merely a condition for performing the next stage, though the completion of all the stages is the cause of the traveller reaching his journey's end. A narrative is imperfect and unintelligible, unless enough is stated to trace the subject of it through its several changes, and thus to account for acts done in situations, which imply the previous occurrence of those changes. For example, a narrative of Alexander's campaigns, which, after the battle of Issus, should proceed to describe his proceedings on the banks of the Indus, without relating any of his intermediate movements, would leave unexplained how Alexander came to be at that distance from Asia Minor. Nevertheless, those movements are to be denominated rather the condition than the cause of his attack upon Porus, &c. They enabled him to reach the Indus ; without them, he could not have reached this distant region : but the cause, or leading antecedent, was his eager desire of glory and love of conquest. So, the appointment of Bacon to the office of lord chancellor is not properly the cause of his taking bribes for deciding suits in chancery ; but his tenure of that office was a necessary condition for his acceptance of the bribes ; and the one event would be unintelligible without the other.

A material circumstance in a narrative is either a cause or a condition (that is, a constituent part of a compound cause) of something which follows.

In historical narration, however, many conditions are omitted, and are left to the sagacity of the reader to supply—which is easily done by persons living at or near the time, and inhabiting the same country; but in perusing the history of a remote period, the reader has often great difficulty in perceiving the concatenation of the events, and in construing them correctly, because he is unable to supply those links which were suggested at the time by a knowledge of phrases, customs, laws, and facts, now lost in oblivion. The careful comparison of other historical monuments, aided by natural ingenuity, often enables the skilful commentator to remove this obscurity, and to interpolate the circumstances which bind together events apparently unconnected, or give a meaning to facts which call for an interpreter.⁽⁶³⁾ Much of the duty of the modern writer of ancient history, as well as of the expositor of the Scriptures, both of the Old and New Testament, consists in this process.

§ 24 In the preceding remarks, we have attempted to explain and illustrate the process by which the causes of actual and positive facts, of events which have really happened, are determined in politics. We have shown how the inductive process, by which political causes are investigated, is checked and verified by a subsidiary process of deduction; and we have compared the corresponding modes of reasoning in physical and other subjects. If the methods to which we have referred were steadily and successfully applied, they would doubtless prevent many of the erroneous deductions of causes with which political

(63) An example of the propositions which a historian, writing for contemporaries, omits, as being known to his readers, but which the commentator of a later age must supply, in order to make the connexion intelligible, is afforded by an observation of Aristotle in his *Rhetoric*. Speaking of the difference between a syllogism and an enthymem, he remarks that if the question is, whether a certain person has gained the prize in a crowned contest, it is sufficient to say that he has conquered at the Olympic games, without any further addition; *for everybody knows that the victors in the Olympic contests are crowned.*—*Rhet.* 1, 2, § 13.

discussion so much abounds. There is, however, so strong a disposition in political reasoning to arrive at conclusions as to causation by short cuts, and to acquiesce in summary inferences, made without a careful survey of the ground, without due analysis and correction, and without a proper observance of the Baconian caution as to negative instances, that it will be desirable to dwell somewhat more at length on the proneness to assume false causes in politics, and to exemplify it in its various phases. This we propose to do in the following chapter.

CHAPTER X.

ON THE ASSUMPTION OF FALSE CAUSES
IN POLITICS.

§ 1 **A**S soon as men emerge from the savage state—when they rise above an exclusive absorption in the satisfaction of their animal appetites, and the exercise of their domestic authority, they begin to speculate about the *causes* of the phenomena by which they are surrounded. Ignorance begets wonder; wonder begets curiosity; and curiosity soon produces some theory, more or less crude, by which the fact in question is referred to a cause. These speculations are at first the mere desultory attempts of hasty generalization, and of fanciful analogies; afterwards they assume a systematic form, though the system is unsound; (1) the last stage is that of sound theory, based upon a wide survey of well-ascertained facts.

The earliest efforts of physical philosophy consisted in assigning natural causes for those phenomena, which the popular belief attributed to the direct agency of a supernatural power. (2) Thus, Jupiter was supposed to hurl his thunderbolts on the earth, and the sun was conceived as a god, driving his

(1) 'Les observations sont l'histoire de la physique, les systèmes en sont la fable.'—Montesquieu, *Pensées Diverses*, tom. vii. p. 248.

(2) Sed qui nondum ea, quæ multis post annis tractari cœpissent, physica didicissent, tantum sibi persuaserant, quantum naturâ admonente cognoverant: rationes et causas rerum non tenebant.—Cic. *Tusc. Disp.* i. 13.

Plutarch, in his *Life of Nicias*, speaks of the alarm caused among the Athenians, at Syracuse, by the eclipse of the moon; and in referring to the ignorance of physical causes in Greece at that time, he says that the doctrines of Anaxagoras were still confined to a few, and that men in general could not endure that the speculators on physics and on the heavenly bodies should reduce (or comminate) the divine action to unreasoning causes, and unprovidential forces, and necessary phenomena: οὐ γὰρ ἠνείχοντο τοὺς φυσικοὺς καὶ μετεωρολόσχας τότε καλουμένους, ὡς εἰς αἰτίας ἀλόγους καὶ δυνάμεις ἀπρονοήτους καὶ καταναγκασμένα πάντα διατρέχοντας τὸ θεῖον.—Nic. c. 23. Compare *Pericl.* 6.

chariot through the sky. When Anaxagoras taught that the sun was an ignited millstone; and when Epicurus and others taught that thunder and lightning were caused by an explosion in the clouds, their explanations were intended to suggest a constant physical cause, where the people saw only a direct divine action. Hence the verses of the Epicurean poet :

Ignorantia causarum conferre deorum
Cogit ad imperium res, et concedere regnum.
Quorum operum causas nullâ ratione videre
Possunt, hæc fieri divino numine rentur.⁽³⁾

According to the view of the ancients, natural philosophy consisted mainly in assigning causes for known phenomena. Thus, Ovid describes Pythagoras as penetrating the mysteries of nature, and explaining to a rude age the causes of celestial appearances :

Cumque animo et vigili perspexerat omnia curâ,
In medium discenda dabat; cœtusque silentum,
Dictaque mirantum, magni primordia mundi,
Et rerum causas, et quid natura docebat;
Quid deus, unde nives, quæ fulminis esset origo,
Jupiter an venti discussâ nube tonarent,
Quid quateret terras, quâ sidera lege mearent,
Et quodeunque latet.⁽⁴⁾

Virgil, in like manner, considers a knowledge of the causes of things as the great privilege of the physical philosopher, and as his shield against the terrors of superstition :

Felix qui potuit rerum cognoscere causas,
Atque metus omnes, et inexorabile fatum
Subjecit pedibus, strepitumque Acherontis avari.⁽⁵⁾

§ 2 Men are constantly surrounded by the objects and powers of nature, and are perpetually exposed to their influence. Hence, they soon find some mode of accounting for the phenomena of the heavenly bodies, the succession of night and day, the

(3) Lucret. vi. 53-6, 89-90.

(4) Met. xv. 65-72.

(5) Georg. ii. 490. Compare the *Problems* of Aristotle, and the *altrius phorai* of Plutarch.

alternation of the seasons, the ruin, snow, thunder, and other physical agents, according to the existing lights of their philosophy. The phenomena of society, and the works of men's hands, are more variable and transitory, but are scarcely less interesting to mankind. Each nation finds itself in a certain political and moral state: it possesses certain institutions, laws, customs, and opinions; its soil presents certain marks of the labour and design of its former inhabitants, in the shape of buildings, roads, cultivation, and other lasting monuments. Hence a curiosity, connected with a patriotic sentiment, arises in each country for an explanation of these facts. How is our present state, it is asked, connected with the past? Who were the people that preceded us? What did they do which produced the existing order of things? These questions the antiquary and the historian undertake to answer. In narrating the events of past ages, they follow the thread which unites the present generation with its predecessors, and they exhibit the causes of the social phenomena by which the living members of the community are surrounded.

All science, according to Aristotle, has arisen out of the amazement of ignorance. Men of a philosophical turn of mind beheld with wonder the phenomena passing around them, and tried to discover their origin and causes, beginning with the nearest and most apparent, and rising gradually to the more obscure and remote, their researches having reference to no practical end, and being intended for the mere satisfaction of curiosity. Hence, he adds, the philosopher is, in a certain sense, a lover of fables, for a fable consists of marvels.⁽⁶⁾

The feeling which Aristotle describes as the animating principle of philosophical speculation, is equally active with respect to historical facts. It applies not only to physics, but to politics and social science—to the works and acts of man, as well as of nature. Wherever an intelligent and civilized com-

(6) *Met.* i. 2. διὰ καὶ φιλόμυθος ὁ φιλόσοφος πῶς ἔστιν ὁ γὰρ μῦθος σίγκειται ἐκ θαυμασίων.

munity exists—such as the Greeks and Romans were in antiquity, and as the nations partaking of the Occidental, and even of the Oriental, culture are in the modern world—there is a curiosity to know the origin of all actual laws, institutions, modes of government, popular customs, religious tenets and observances, proper names, and remarkable modes of speech and forms of expression; to learn the authors of public buildings and monuments, the occasion of their foundation, and the events which they commemorate; to discover the causes implied in the results of human industry and contrivance which strike the observation.⁽⁷⁾ Where this curiosity, this appetite for knowing the origin of things, can be appeased by a recourse to authentic facts and contemporary testimony, the cause assigned may be true; but where no authentic memorial exists, there is a disposition to supply a *pabulum* for this craving after knowledge by a fictitious cause.

Every narrative (as we have seen), even the most simple one, involves an explanation of causes;⁽⁸⁾ but in an ordinary history this causation is proximate, not remote. The causes and effects follow one another in a close series; they are interlaced together: they likewise concern single and definite events. The main business of the philosophical, or, as he is called by Dr. Whewell, the ætiological historian, consists in tracing the remote causation of events and social states, and particularly in grouping together those numerous and apparently unconnected phenomena, which form the determining conditions of all the great political and religious revolutions of society.

§ 3 Now, whether his problem be on a large or small scale—whether he attempt to explain the origin of a great political revolution, or of a single law or local custom, the historian is in constant danger of assuming false causes, of mistaking

(7) The causes of events in history ought to be explained.—Cic. *de Orat.* ii. 15. A historian ought to investigate the causes of events.—Mascardi dell' *Arte Storica*, tratt. iii. c. 5.

(8) Above, ch. ix. § 23.

mere coincidence in point of time or place for causation, of falling into the fallacy called by the logicians *non-causa pro causa*.

If a historian were to trace the origin of a fact to an event posterior to it in time ; for example, if he were to attribute the literary activity of Italy in the age of Dante, Boccaccio, and Petrarch, to the invention of printing, he would commit an anachronism, which would be exposed by a mere comparison of dates, in the same manner in which the derivation of the wisdom of Numa from the philosophy of Pythagoras is refuted. But many of the causes of events assigned by historians, though less obviously absurd than an anachronism, rest on no better foundation. They often find a connexion of causation between events, which had no other connexion than chronological sequence or local proximity. Thus, in explaining the facts which they recount, luxury has been made by historians the cause of poverty and depopulation ; commercial restrictions have been considered the cause of commercial prosperity ; democracy the cause of pantheism ; free government the cause of oppression of dependencies ; and laws which have operated as impediments, though ineffectual impediments, to the production of certain effects, have been treated as their cause ; just as swaddling-bands are considered the cause of the child's growth and vigour.

Among the imaginary causes which abound in history, one of the commonest is that which consists in assigning conjectural motives for real actions ; after which, the man's character is judged from the interpretation thus put upon his conduct. We have, in treating of political history, already shown to what an extent this arbitrary assumption of causes prevails, and have pointed out the licence which it affords to the prejudiced or partial historian.⁽⁹⁾ For if the imaginary causes of action, which he suggests and interweaves with his narrative, are assumed to be real, the favourable or unfavourable construction (as the

(9) Above, ch. vii. § 16.

case may be) which he seeks to put on the conduct of the historical personages is established.⁽¹⁰⁾

Inasmuch as the apophthegm commended by Bacon, 'vere scire est per causas scire,'⁽¹¹⁾ is not less true of politics and political history than of the physical sciences, it may be fitting to illustrate the disposition to fill up the blanks and chasms of historical tradition with imaginary causes, and to show by examples its strength and prevalence.

§ 4 One copious class of illustrative instances is afforded by the manner in which explanatory legends grow up in religious or popular mythology. Religious legends, both in antiquity, and in modern heathen countries, consist, to a large extent, of stories which have been invented to account for existing ceremonies and usages, or for other sacred institutes. The aim of the narrative is to explain the *cause* or *origin* of the rite or sacred object. After the time when learned research had begun to occupy itself, among the ancients, with the explanation of religious notions and practices, a numerous class of writings was devoted to this sub-

(10) If we be often incorrect in the judgment we form of other men's behaviour, I mean as to the facts, words, and circumstances themselves, much more are we apt to misinterpret the motives from which they arise. It will convince us of this, to recur to our own consciousness; and to recollect whether it hath not frequently happened to ourselves to have the principles, views, and inducements upon which we acted, totally misunderstood or misrepresented; how forgetfulness hath been construed into neglect; inadvertency into insult; cheerfulness or vivacity of spirits into forwardness, intrusion, or petulance; shyness into distance; natural reserve into superciliousness and disrespect. It may sometimes have fallen out worse. An unfortunate conjunction of circumstances, or combination of accidents, may have caused us to be suspected of dark purposes, or mean contrivances of art, craft, or design; when, in truth, our minds were perfectly free from them. We may have appeared to be insincere when we were never less so; to have acted an equivocal part, when the whole embarrassment arose from unforeseen, unknown, or unthought of, positive circumstances. If ever this case has been ours, it ought to admonish us to reflect, that the same may happen to others; and possibly to those with whom we have a present cause of dissatisfaction or complaint. We may be acting, at this very time, upon those hasty judgments from which we have ourselves experienced hardships and injustice. We have seen how liable other men are to error, with respect to us, when they proceed upon first impressions, partial accounts, or even upon appearances; and we cannot but know, that we are no less fallible in judging of *them*.—Paley's *Works*, vol. vi. p. 352.

(11) *Nov. Org.* ii. aph. 2.

ject, of which the lost poem of Callimachus, entitled the *Causes* (αἰτίαι),⁽¹²⁾ the *Fasti* of Ovid,⁽¹³⁾ and the *Greek and Roman Questions* of Plutarch, may serve as examples.⁽¹⁴⁾ In some cases, the origin of a festival or other sacred ceremony is assigned. In others, it is explained how a certain temple was built, or how a peculiar belief or legend was associated with a particular place. These explanations are almost always imaginary; and even when they do not involve marvellous incidents and violations of the laws of nature, are not founded on contemporary testimony. In the ancient religions, it was a general article of faith that each of the various usages, ceremonies, and peculiarities of worship, connected with the several temples, oracles, altars, and holy places, had its proper reason; that there was nothing done which could not be followed up to a satisfactory origin; that everything had been instituted by a competent founder, or was celebrated as a memorial of some important fact.⁽¹⁵⁾ This is the view of the rites of Hercules, celebrated near his city, which Evander impresses on Æneas. The Italian prince is desirous of convincing his guest that these ceremonies are not un-

(12) See Callim. *Fragm.* 2-32, cf. 103-5. Dionysius says, with reference to the origin of the institution of the Vestal virgins at Rome: ἐνὶ τῷ ὧν οἱ τὰς αἰτίας οὐκ ἐξηγαγόντες καλῶς, εἰκαισίρας ἐξηγέοντο τὰς γραφάς.—*Ant. Rom.* ii. 64.

(13) 'Tempora cum causis Latium digesta per annum,
Lapsaque sub terras orta que signa canam.'

Fast. i. 1-2.

'Tempora cum causis annalibus eruta prisca,
Lapsaque sub terras orta que signa cano.'

Ib. iv. 11-2.

(14) Upon archæological *aiṛiai*, see Wyttenbach's note at the beginning of the 'Questiones Romanæ,' *Animadv. ad Plutarch. Mor.* vol. ii. pars i. p. 21. The short piece of Lucian, entitled Κρονικά, or Saturnalia, is an example of a burlesque *aiṛiov*. The work of Pausanias contains a large number of these explanatory legends. Compare Grote, vol. i. p. 85; and see his comments on the Homeric Hymn to Ceres, p. 56.

(15) 'Quæcunque ab hominibus fiunt maximeque in re sacrâ debent habere suas causas.'—*Arnob. adv. Nat.* vii. 25. A dialogue between a pagan and a christian, written by the monk Evagrius in the fourth century, commences with the following assertion of the pagan interlocutor: 'If you examine with care, you will see that all religions and all sacred rites have rational origins; but your faith is so empty and irrational, that it would be admitted by none but a madman.' See Guizot, *Civil. en France*, léc. 6.

authorized and arbitrary, but can be traced to a legitimate source.

Non hæc solemnia nobis,
Hæc ex more dapes, hæc tanti numinis aram,
Vana superstitio veterumque ignara deorum
Imposuit.⁽¹⁶⁾

Sometimes there were various explanatory legends for the same religious usage, as is particularly remarked by Strabo, with respect to the causes assigned for the several forms of animal-worship in Egypt.⁽¹⁷⁾ When this was the case, it was clear that, though all might be false, only one could be true.

The origin of religious festivals, which abounded in the ancient states, especially afforded a wide field for the ingenuity and imagination of the mythologist.⁽¹⁸⁾ Sometimes, indeed, it happened that a festival began at a historical period, in which case the true cause of its origin might be known. Thus, the Magophonia was a Persian festival, said to have been instituted in memory of the massacre of the magi, at the accession of Darius.⁽¹⁹⁾ The Eleutheria was a festival established by the Greeks at Plataea, in commemoration of the liberation of their country from the Persians.⁽²⁰⁾ The Asinaria was a Syracusan festival, so called from the river where Nicias surrendered at the close of the disastrous siege by the Athenians.⁽²¹⁾ These festivals had a well-attested origin, and may be compared with the English custom of carrying round a figure of Guy Fawkes on the 5th

(16) *Æn.* viii. 185-8. The story is told to explain the origin of the *ara maxima*. Verses 271-2 are necessary, and contain the point of the narrative. They are improperly rejected by Heyne. See another form of the legend, in an extract from Cassius Hemina, in *Victor de Origine Gent. Rom.* c. 6; also, Ovid, *Fast.* i. 581; Dion. Hal. i. 40.

(17) xvii. 1. Compare the double festival legend in *Plut. Camill.* 33, and the various origins of the name *Maius*, at the beginning of the fifth book of Ovid's *Fasti*.

(18) See K. F. Hermann, *Gottesdienstlichen Alterthümer der Griechen*, part iii., for an enumeration of the Hellenic festivals.

(19) Herod. iii. 79; Ctesias, c. 15; Agathias, *Hist.* ii. 26.

(20) Strabo, ix. p. 632; Plutarch, *Aristid.* 21.

(21) Plutarch, *Nic.* 28.

of November, which can be traced to a historical cause. But more frequently, as in the case of the Olympic, Nemean, Panathenaic, and other festivals, as well as of the Saturnalia,⁽²²⁾ the Lupercalia, the Palilia, and similar solemnities, the origin was referred to the institution of some god or hero, and the true cause was lost in the mists of antiquity. The difference between the mythical origins of religious customs, and the accounts derived from authentic contemporary evidence, will at once appear by comparing these fabulous legends with Bingham's work on the antiquities of the christian church.⁽²³⁾

Almost everything connected with religious worship had, in this manner, an explanatory story attached to it;⁽²⁴⁾ and this ætiologizing habit was extended to extraordinary natural phenomena, to remarkable constructions and works of art, to words and names, to proverbs, to national customs, and to political institutions.

§ 5 A large class of mythical stories were invented in order to explain the causes of remarkable physical appearances

(22) As to the reign of Saturn—with its community of goods and equality of conditions—as an *airor* of the Roman festival of Saturnalia, see Justin, xliii. 1; Macrobi. *Sat.* i. 7. Dion. Hal. (*Ant. Rom.* i. 49) refers to sacrificial and festival rites as evidence of the arrival of Æneas and the Trojans in Italy. A festival similar to the Saturnalia, and commemorative of the primitive equality of mankind, existed in the ancient Persian religion, which knew nothing of Saturn and his golden reign.—Hyde, *Vet. Pers. Rel. Hist.* c. 19, p. 252, ed. Oxon. 1760; Gibbon, *Decl. and Fall*, c. 8.

(23) Bingham's work is entitled *Origines Ecclesiasticæ, or the Antiquities of the Christian Church*.

(24) See K. O. Müller, *Proz. zu einer Wissenschaftlichen Mythologie*, p. 106 (p. 47, Engl. transl.); Grote, vol. i. p. 606. Concerning the *ἱεργαί*, or official interpreters of sacred things, see Ruhnken, *ad Tim. Lex. in v.* The fullest account of this class of persons, and of the manner in which false causes were invented by the Greek antiquarians, is given by Preller, *Polemonis Fragmenta*, p. 161-99.

Preller refers to a case mentioned by Pausanias, of some large (fossil) bones, which were disclosed in Lydia by a land-slip; the country people believed these to be the bones of Geryon, but the more learned *ciceroni* assigned them to Hyllus, the son of the earth (i. 35, § 8). He then remarks as follows: 'Undenam hauserunt hæc homines argutuli? Nempe fieta erant ab ipsis. Quoniam id condonandum periegetis; nam hoc vel maxime censebatur (et censeatur etiam nunc) ars antiquaria, ut si quid necopinati reperiretur, id callide scirent cum aliquo ætatis heroicæ specimine et documento connectere et ab eo repetere; quod qui satis confidenter facere audent, is solet multis hominibus ingeniosus audire.'—p. 164.

or operations, or of peculiarities in animal species. These do not, indeed, properly fall within the class of false causes which we are examining; but they serve to illustrate the process by which an imaginary explanation is invented for a real fact. Thus, the Greeks thought that earthquakes were produced by the influence of the god Poseidon, or Neptune, who struck the ground with his trident.⁽²⁵⁾ The northern nations explained the earthquake, by referring it to the movements of the chained Loki, when drops of poison fell upon his face. The Hindus say that earthquakes happen when one of the eight elephants which support the earth is tired of his load, and shakes his head. When the earth quakes, the Japanese say that a whale has crept under the earth.⁽²⁶⁾ The flames of *Ætna* were supposed to be produced by a giant, who had been laid under Sicily as a punishment for his impiety in making war against the gods.⁽²⁷⁾ In like manner, one of the lofty volcanoes of Mexico was believed by the ancient inhabitants of the country to be the abode of the departed spirits of wicked rulers, whose agonies and groans produced the physical convulsions of the mountain.⁽²⁸⁾ Peculiar appearances in mountains and rocks, arising from their form, size, isolation, and outline, or from marks and indentures in them, are a frequent theme of explanatory legends. Thus, the shape of Mount Sipylus suggested the idea that it was the figure of Niobe converted into stone.⁽²⁹⁾ Sometimes hills, or rocks, have been dropped or thrown by the Virgin, by giants, or by the devil, in a remarkable spot; sometimes the marks of their fingers or feet are visible upon the stone.⁽³⁰⁾ The water of

(25) Grote, vol. i. p. 536-8.

(26) Grimm, *Deutsche Mythologie*, p. 473.

(27) *Æsch. Prom.* 373; see Heyne on *Æn.* iii. 578.

(28) Prescott, *Conquest of Mexico*, b. 3, c. 8.

(29) See Pausan. i. 21, § 3. He says that when the spectator was near, it did not resemble the form of a woman; *εἰ δέ γε πορρωτέρω γένοιτο, διδακνύμενην δόξεις ὁρᾶν καὶ κατηφῇ γυναικα*. Compare Ovid, *Met.* vi. 149, 311-2. Other legends, explanatory of the shape of natural objects, are collected by Mr. Pashley, *Travels in Crete*, vol. i. p. 24, n. 24.

(30) Grimm, *ib.* p. 307-9, 321, 574.

Cissussa, a fountain in Bœotia, was thought to resemble wine; hence a legend arose that the infant Bacchus was washed in it by his nurses.⁽³¹⁾ The periodical discoloration of a river in Syria was referred by the natives to the blood flowing from the wound of Adonis—a belief finely alluded to by Milton—

Thammuz came next behind,
Whose annual wound in Lebanon allured
The Syrian damsels to lament his fate
In amorous ditties all a summer's day;
While smooth Adonis from his native rock
Ran purple to the sea, supposed with blood
Of Thammuz yearly wounded.⁽³²⁾

Coral was supposed to have been formed by the hardening influence of the Medusa's head, exercised upon submarine plants.⁽³³⁾ Large fossil bones of some extinct species, found in the island of Samos, were related by the ancient Greek inhabitants to have belonged to gigantic animals, called *neades*, whose roar was so loud that it cracked the earth.⁽³⁴⁾ The impressions of ammonites found in the lias limestone near Whitby were explained by a legend, which related how St. Hilda had changed the snakes into stone.⁽³⁵⁾ Some circular marks on the red sandstone in Herefordshire were also explained by a legend about the impressions left by the hoofs of St. Elizabeth's horse. Ireland, like other islands, is without certain species of animals; the absence of toads and other reptiles is accordingly explained by the legend, that they were expelled by St. Patrick.⁽³⁶⁾ When it snowed, the Germans said that Frau Holle was making her bed and shaking out the feathers.⁽³⁷⁾

(31) Plutarch, *Lysand.* c. 28.

(32) *Paradise Lost*, b. 1. Compare Lucian *de Deâ Syriâ*, c. 8, where a physical cause is assigned.

(33) Ovid, *Met.* iv. 741-52. Compare Theophrast. *Hist. Plant.* iv. 8.

(34) Ælian, *H. A.* xxvii. 28. See Meineke, *Analecta Alexandrina*, page 60.

(35) Note 10 to *Marmion*, canto ii.

(36) See Lyell's *Geology*, vol. ii. p. 107. Compare Price's preface to Warton, p. 22, where numerous examples of this class of legends are collected and explained.

(37) Grimm, *ib.* p. 165.

A child's story, reported by Grimm, explains the origin of the black seam in beans.⁽³⁸⁾ The poetical legend of the wild huntsman was imagined from the howling and roaring of the wind.⁽³⁹⁾ The peculiarities of animals were also often referred to a mythical cause. Thus, the story of the transformation of the Athenian sisters, Procne and Philomela, into the swallow and the nightingale accounts for the respective habits of the two birds, one remaining in the woods, the other frequenting the abodes of man; while the red feathers on the swallow's breast were treated as memorials of the violent death of Philomela.⁽⁴⁰⁾ The eyes in the peacock's tail were said to have been taken from Argus after he had been killed by Mercury, and thus preserved by Juno after his death.⁽⁴¹⁾ Arachne, celebrated for her skill in weaving, was turned by Minerva into a spider.⁽⁴²⁾ Ovid's poem of *Metamorphoses* is in great part composed of mythological stories borrowed from the Greeks, explanatory of the origin of animals and other natural objects; a similar collection of Greek fables is preserved in the work of Antoninus Liberalis. The fiction of later ages has likewise expatiated in the same field. Thus, a German tale traces the short tail of the goat, and his peculiar eyes, to the influence of Satan.⁽⁴³⁾ Similar tales are at present related by the Orientals, to explain the origin of peculiarities in the form of animals.⁽⁴⁴⁾ Many of the Æsopian fables, likewise, are framed upon this model. The fiction serves to explain the character or attributes of some animal.⁽⁴⁵⁾

(38) *Kinder und Hausmärchen*, vol. i. No. 18; ed. 3.

(39) Grimm, *D. M.* p. 517, 532. Compare Boccaccio's tale of *Theodore and Honoria*.

(40) See Ovid, *Met.* vi. 668-70; Virg. *Georg.* iv. 15.

(41) Ovid, *Met.* i. 722-3.

(42) *Ib.* vi. 139-45.

(43) Grimm. *Kinder und Hausmärchen*, vol. ii. No. 148.

(44) See the amusing stories respecting the vulture and the hoopoe, in Mr. Curzon's *Travels in the Levant*. A legend explanatory of marks on the side of fish found in a spring near Tripoli, is in the *Mémoires du Chev. d'Arvieux*, (Paris, 1735,) tom. ii. p. 390, c. 23.

(45) Thus Æsop (*Fab.* 114, ed. Tauchnitz) alludes to the belief, partially founded on fact, that the bee loses its life when it stings.

'Animas in vulnere ponunt.'—Virg. *Georg.* iv. 238.

Plin. *H. N.* xi. 19; and Cuvier's note, *Trad. de Grandsagne*, tom. viii. p. 230. *Fab.* 116 accounts for the supposed providence of the ant. (Com-

§ 6 Ancient buildings and monuments, whose true origin has been forgotten, are likewise often referred to fabulous or celebrated authors, according to the fancy of the narrator, or the current mythology of the country. Thus, the Memnonia in Western Asia were anciently named after the mythical son of Aurora, and the Jasonia after the leader of the Argonauts ;⁽⁴⁶⁾ there were roads and works of the fabulous queen Semiramis ;⁽⁴⁷⁾ while the modern legends of Syria attribute all great works to Solomon ;⁽⁴⁸⁾ and in England ancient towers are sometimes called after Cæsar ; Ovid's tower, the tower of Leander, and Pompey's pillar, owe their appellations to a similar cause.⁽⁴⁹⁾

pare Ovid, *Met.* vii. 652-7, where the mythe is partly etymological). *Fab.* 124 assigns an origin for the peculiarities of the bat, the bramble, and the seagull. *Fab.* 138 explains a habit of the ass ; and *Fab.* 152, 281, the shape of the camel's ears. Babrius (*Fab.* 73) accounts for the scream of the kite. Phædrus (iv. 17) for a habit of dogs. An Æsopian fable, mentioned by Aristoph. *Av.* 474-8, explains the feathers on the head of the tufted lark. A similar explanation of the Indian hoopoe, attributed to the Bramins, is related by Ælian, *N. A.* xvi. 5. Various peculiarities in human nature likewise receive a fanciful explanation in Æsop, *Fab.* 255, 256, 320, 347, 365 ; Babrius, *Fab.* 66 ; Phædrus, iv. 14. The ancient fable of Pandora's box (see Babrius, *Fab.* 58 ; *Anth. Pal.* x. 71) belongs to the same class. Babrius (*Fab.* 57) accounts for the falsehood of the Arabians.

(46) See Diod. ii. 22 ; Strabo, xi. 13, § 16 ; *ib.* 14, § 12 ; Grote, vol. i. p. 329. In the latter passage of Strabo, the word *καρίεσσα* has been incorrectly altered by the recent editor, Kramer. Compare Justin, xlii. 3, concerning the destruction of Jasonia by Parmenio.

(47) Diod. ii. 13, 14.

(48) ' Dans toute la Syrie, les Mahométans, comme les Juifs et les Chrétiens, attribuent tous les grands ouvrages à Salomon ; non que la mémoire s'en soit perpétuée sur les lieux, mais parcequ'ils font des applications des passages de l'Ancien Testament : c'est, avec l'Evangile, la source de presque toutes les traditions, parceque ce sont les seuls livres historiques qui soient lus et connus ; mais comme les interprètes sont très-ignorans, leurs applications manquent presque toujours de vérité : c'est ainsi qu'ils sont en erreur, quand ils disent que Balbek est la *domus saltus Libani* de Salomon ; et ils choquent également la vraisemblance, quand ils attribuent à ce roi les puits de Tyr et les édifices de Palmyre.'—Volney, *Voyage en Egypte et en Syrie*, tom. ii. p. 124. The Kochlani horses of the Arabs are traced up to the stud of Solomon.—Niebuhr, *Description de l'Arabie*, p. 142.

When the Arabs plundered the Spanish treasury, they took a table, said to be formed of a single emerald, and valued at 500,000 pieces of gold. ' This table (says Gibbon), was called the Table of Solomon, according to the custom of the Orientals, who ascribe to that prince every ancient work of knowledge or magnificence.'—*Decl. and Fall*, c. 31, note.

(49) See *Mémoires de Tott*, tom. i. p. 128.

The story of Arion and the dolphin appears to have originated in a bronze statue at Tænarum.⁽⁵⁰⁾ Explanations of the origin of the Corinthian capital, and of the architectural figures named Caryatides, given by Vitruvius, probably belong to the legendary class.⁽⁵¹⁾ Large walls, or bridges thrown over a river with precipitous banks, are popularly considered as the work of the devil.⁽⁵²⁾ Works of art preserved in temples, or in other depositories of antiques, have, both in ancient and modern times, been a fertile subject for the ever-ready invention of the *cicerone*.⁽⁵³⁾ Of the facility with which such explanatory stories are fabricated, a more striking example can scarcely be found than that of the Oldenburg horn—a valuable silver-gilt horn, richly ornamented, which was preserved in the family of the Counts of Oldenburg. A detailed account is given in several chronicles of the manner in which this horn was presented to a Count of Oldenburg, in the 10th century, by a supernatural being, whom he met in a mountain when hunting. The horn, however, which is still extant, is proved, by coats of arms and inscriptions engraved upon it, to be not earlier than the end of the 15th century.⁽⁵⁴⁾

The origin of the useful arts, and of their several tools, processes, and products, has afforded a wide field for the imagination of the ætiologist. A long chapter in the seventh book of

(50) Herod. i. 24; Ælian, *N. A.* xii. 45.

(51) Vitruv. i. 1, § 5; iv. 1, § 9, 10.

(52) Grimm, *ib.* p. 573-4.

(53) On the facility with which explanatory stories for relics preserved in ancient temples were invented, see Blakesley's *Life of Aristotle*, p. 91-3. 'It has been remarked by Heeren (says Mr. Blakesley), that Herodotus's account of the history of Egypt is derived entirely from local narrations, connected with public monuments. This remark admits of far wider application. It would not be difficult to show that almost all the early events recorded by that author rest on the same basis. For instance, the history of the Lydian kings, in the first book, is obviously made up of stories connected with offerings in the temples of Apollo at Delphi and Miletus. This is plain from the fact, that every narrative at all circumstantial of any of these monarchs terminates with a reference to one of these temples. The historians before him, with perhaps the exception of Hellanicus, made use even of the topographical form in the composition of their works.'

(54) See *Notes and Queries*, vol. ii. p. 417, 516.

Pliny's *Natural History*,⁽⁵⁵⁾ enumerates the supposed inventors in every department of the arts known to the ancients; in general, the invention is referred to a fabulous personage, or to an entire nation, merely upon the ground that they excelled in that article during the historical period. Thus, Ceres is described as the inventor of grinding corn; Danaus, of wells; Thrason, of walls; the Cyclopes, of towers; Arachne, of linen and nets; Eumolpus, of the culture of the vine; Buzyges, or Triptolemus, of the plough; Penthesilea, of the javelin; Amphion, of music; the Egyptians were the inventors of medicine; the Phrygians, of four-wheeled carriages; the Ætolians, of the lance; the Thessalians, of fighting on horseback.⁽⁵⁶⁾ Several of these and other stories, fabricated by the ancients on etymological and other grounds, without a tittle of contemporary evidence, are reported by Goguet, in his work on the origin of laws, arts, and sciences, as if they rested on some authentic tradition.

§ 7 Fictitious etymologies for existing names have likewise often been fabricated, implying an imaginary cause. Thus, ethnic appellatives have been explained, by forming out of them an eponymous progenitor of the nation. The Hellenes were reported to spring from an ancient king, Hellen; the Dorians, from Dorus; the Ionians, from Ion; the Pelasgians, from Pelasgus; the Danai, from Danaus; the Trojans, from Tros; the Ægyptians, from Ægyptus; the Armenians, from Armenus. So the Italians

(55) vii. 57.

(56) Palamedes is said to have invented numbers, weights and measures, beacon-fires, and the use of stars in navigation.—Sophocles. *Fragm.* 379, ed. Dindorf.; Plat. *Rep.* vii. 6. There were, however, other claimants for the invention of numbers. Æschylus (*Prom.* 459) gives it to Prometheus, while Livy (vii. 4) assigns it to Minerva. Two stories concerning the discovery of the Tyrian dye by Hercules, and of the use of iron by Vulcan, are extracted from the *Paschal Chronicle*, in Westermann's *Mythographi*, p. 310-2. The Athenians considered themselves as having taught the use of food, water, and fire.—Plutarch, *Cimon*, 10. Mercury, Apollo, the Muses, Bacchus, and other gods, were supposed to have been deified on account of their inventions. See Diod. i. 16; v. 72-5; Augustin, *de Civ. Dei*, xviii. 8.

were traced to an ancient Italus;⁽⁵⁷⁾ the Latins, to King Latinus;⁽⁵⁸⁾ the Romans, to Romulus; Capua, to Capys;⁽⁵⁹⁾ and the Claudian gens, to Clausus, a Sabine leader in the time of Æneas.⁽⁶⁰⁾ The Median dress, afterwards worn by the Persians, was derived from Medea.⁽⁶¹⁾ The Afghauns trace their origin to Afghaun, a grandson of Saul.⁽⁶²⁾ The Aborigines were said to take their name either from ὄρη, as mountaineers, from being the *original* inhabitants of Italy, or from being wanderers (*aberrare*).⁽⁶³⁾ The Etruscans were thought to have received their name *Tusci* from their skill in religious ceremonies, as being *θυοσκοί*.⁽⁶⁴⁾ The sect of the Ebionites was derived from an imaginary founder, named Ebion. The formation of men from stones (λάας, a stone) by Dencalion and Pyrrha performs a double etymological service; it explains the word *ἄσσοι*, and also accounts for the *hard* lot of mankind.⁽⁶⁵⁾

Almost every distinguished Greek family terminated in a divine or heroic progenitor, from whom the lineage was derived.⁽⁶⁶⁾

(57) Italia was derived from a chieftain named Italus, or from the oxen of Geryon, *vituli*, Dion. A. R. i. 35. Other rationalizing writers saw in the latter word an allusion to the abundance of cattle in Italy, Gell. N. A. xi. 1.

(58) The name Latium was also explained, by its being the country which had afforded a hiding-place to Saturn, when driven from heaven by Jupiter:

'Is genus indocile ac dispersum montibus altis
Composuit, legesque dedit, Latiumque vocari
Maluit, his quoniam latuisset tutus in oris.'

Compare Dion. Hal. ii. 2.

Æn. viii. 321-3.

(59) Virg. Æn. x. 145; Livy, iv. 37.

(60) 'Clandia nunc a quo diffunditur et tribus et gens
Per Latium, postquam in partem data Roma Sabinis.'

Æn. vii. 706-9.

Another legend of the origin of the same family in Plut. *Publ.* 21; Livy, ii. 16.

(61) Strab. xi. 13, § 10.

(62) Elphinstone's *Account of Caubul*, vol. i. p. 205, 207; ed. 1842.

(63) Dion. Hal. *Ant. Rom.* i. 9, 10.

(64) *Ib.* c. 30.

(65) Apollod. i. 6, 2, from Hesiod and Pindar, as to the etymon of *ἄσσοι*. For the hard lot of mankind, see Ovid, *Met.* i. 414.

'Inde genus durum sumus, experiensque laborum,
Et documenta damus quâ sinis origine nati.'

Also, Virg. *Georg.* i. 63:

'Unde homines nati, durum genus.'

(66) The Greek habit of genealogizing real families and clans up to a mythical ancestor is fully explained by Mr. Grote, *Hist. of Gr.* vol. iii.,

Hence, flattery was busy in tracing a fabulous origin for distinguished men. When the Cæsars had raised themselves to supreme power, the derivation of the Julian gens from Iulus, the son of Æneas, was brought into prominent relief.⁽⁶⁷⁾ Vespasian, indeed, did not conceal the obscurity of his family, and ridiculed an attempt to deduce his origin from the founders of Reate, and a companion of Hercules, whose monument was extant on the Salarian road.⁽⁶⁸⁾ Pallas, however, the freedman, in the time of Claudius, was, notwithstanding his notorious servile origin, proud to hear himself called in the senate the descendant of the mythical king of the Arcadians, celebrated by Virgil.⁽⁶⁹⁾ In the fifth century, too, the principal senatorial houses did not scruple to fabricate genealogies which connected them with heroic or renowned ancestors.⁽⁷⁰⁾ Even for later times the early steps in pedigrees have been supplied by fiction, without the least scruple, in order to gratify the pride of families.⁽⁷¹⁾

All the gentile and family names which have been cited, and numerous others of the same character, are etymological fictions: the name of the nation, race, or family, suggested the fictitious name of the progenitor, and did not grow out of it. They, therefore, are unlike such names as Scipio Africanus, or Cato Uticensis, where the origin of the appellative is known from contemporary history. In such names as Marcius Coriolanus, Manlius Torquatus, and Valerius Corvinus, it may be doubtful whether the taking of Corioli, the stripping of the collar from the Gaul, and

p. 73-89. The Tartar tribes, in like manner, traced their descent to a common ancestor, and prided themselves on their genealogy; 'but (says Gibbon) the custom which still prevails, of adopting the bravest and most faithful of the captives, may countenance the very probable suspicion, that this extensive consanguinity is, in a great measure, legal and fictitious.' — *Decl. and Fall*, c. 26.

(67) See Klausen, *Æneas und die Penaten*, vol. ii. p. 1071. Compare a genealogical legend in Dion. Hal. iii. 29.

(68) Sueton. *Vesp.* 12.

(69) Tac. *Ann.* xii. 53; Virg. *Æn.* viii. 51.

(70) See Gibbon, c. 31, A.D. 408. The early part of the pedigree of Mahomet is fabulous, Gibbon, c. 50, note.

(71) Eichhorn states that authentic genealogies do not reach beyond the twelfth century, and that the earlier descents in pedigrees are fictitious. — *Geschichte der Litteratur*, vol. ii. part i. p. 269.

the pecking of the Gaul's eyes by a crow, was the true origin of the name, or only a fictitious explanation, to which the name gave rise.⁽⁷²⁾

Mottoes in heraldry which allude to family names have likewise been adapted to the name, and have not given rise to it. The true origin of the party names Guelph and Ghibelline was unknown or forgotten in Italy, where the division had created such bloody strifes, and false etymologies were accordingly supplied.⁽⁷³⁾

§ 8 Popular proverbs have also been often subjected to this process. A saying which becomes popular remains in use after its origin has been forgotten, and the ingenuity of antiquarians is then employed in finding an explanation of its origin. Thus, the Greeks used the expression, 'a Cadmean victory,' to signify a victory disadvantageous to the conquering party: the origin of this proverbial expression was differently explained—some traced it to the combat of Eteocles and Polynices—others to a victory of the Cadmeans over the Argives—others to Œdipus, and others to Cadmus.⁽⁷⁴⁾ So the proverb as to the interval between the cup and the lip was sometimes traced to a story of Ancæus being killed by a wild boar; sometimes to the death of Antinous, as related in the *Odyssey*.⁽⁷⁵⁾ The origin of the saying, 'Væ victis,' is traced to the weighing of the ransom for Rome when the city was taken by the Gauls—whether truly or not, cannot be ascertained. Various explanations have been given of the origin of the French proverb, 'Faire des châteaux en Espagne,'

(72) Concerning the name Coriolanus, see Plutarch, *Coriol.* 11; Dion. Hal. vi. 94; and Niebuhr, vol. ii. n. 553. As to Manlius Torquatus, see Livy, vii. 10; Gellius, ix. 13. Compare Arnold's *History of Rome*, vol. ii. p. 87, who treats the story as fictitious. As to Valerius Corvinus, see Dion. Hal. xv. 1. The story of Mucius Sævola burning his left hand seems to be a genealogical legend.—Livy, ii. 13. Compare Beaufort, *Essai*, p. 90, 256.

(73) Raumer, *Gesch. der Hohenstaufen*, vol. v. p. 287.

(74) Zenob. *Prov.* iv. 45. More than seven explanations of this proverbial saying are enumerated in the note of Leutsch, vol. ii. p. 74.

(75) *Ib.* v. 71; Diogenian, vii. 46; Gregor. Cyp. ii. 95; *Schol. Od.* xxii. 9.

but all equally conjectural and unauthorized.⁽⁷⁶⁾ Other French proverbs (such as 'un Manceau vaut un Normand et demi') are likewise explained conjecturally by a reference to supposed facts.⁽⁷⁷⁾

§ 9 The inquisitive and subtle habit of mind which distinguished the Greeks, and their speculative disposition, led them to discuss questions of this sort, both in written treatises, and in conversations at convivial meetings. Hence the numerous works of questions and solutions respecting Homeric criticism,⁽⁷⁸⁾ and other points of literary, mythological, or historical interest, of which different explanations were given. This habit of accounting for all existing usages and modes of expression was, at an early period, extended to *political* institutions; and an important class of writers (of whom Aristotle was one) undertook to trace the origin of the laws, institutions, and national customs of different states and nations.⁽⁷⁹⁾ These explanations were in some cases derived from contemporary testimony, and were as authentic as the contemporary records of monuments and buildings; for example, of the Parthenon, the Coliseum, and Trajan's column. Where, however, contemporary accounts of the origin of a political institution were not extant, the want was unhesitatingly supplied by the imagination of the ætiologist, who gave as a fact a probable conjecture of his own; so that the explanation was like the name of Memnon, or Jason, or Solomon, or Caesar, attached to a building whose author was unknown.

Instances of this mode of supplying causes occur even in Herodotus. Thus, the effeminate habits of the Lydians, compared with their hardihood in earlier times, were referred to the policy of Cyrus, who was supposed to have changed their pursuits and mode of life as a security against their defection.⁽⁸⁰⁾ The custom

(76) Le Roux de Lincy, *Proverbes Français*, tom. i. p. 191. The origin of the German saying, 'Böhmische Dörfer,' is not well ascertained.—See Körte's *Sprichwörter*, p. 50.

(77) Le Roux de Lincy, *ib.* p. 235.

(78) See *Lehrs de Aristarchi Studiis Homericis*, p. 213-29.

(79) See Schneidewin, *Prol. ad Heraclidis Politias*, p. vii.

(80) Herod. i. 155-6; Polyæn. vii. 6, § 4; Justin. i. 7; Zenob. *Prov.* v. 1. Compare Grote, *Hist. of Gr.* vol. iv. p. 268. Montesquieu (*Esp. des Loix*, x. 12) criticizes this law of Cyrus as if it were historical.

of the Ionian women at Miletus not to eat with their husbands, is similarly traced to an unreal, though apparently historical origin.⁽⁸¹⁾ A considerable portion of the *Cyropædia* of Xenophon is constructed upon this principle. Various usages and ceremonies of the Persian court, and institutions of the Persian government, both civil and military, which had a real existence in the time of Xenophon, are described as having been founded by Cyrus. His motives for establishing them are sometimes given in detail, forming a sort of imaginary rationale of the custom or law; at other times, an event out of which it is described as having arisen is dramatized. We must not, however, suppose that Xenophon had any historical warrant for the causes which he thus assigns; the custom upon which he builds his narrative was real, and known to him from contemporary testimony, but the explanatory narrative is fictitious and unreal. Thus, when he speaks of the custom of Cyrus the Great to honour persons by sending to them portions of meat from his table, and adds that the custom is still preserved,⁽⁸²⁾ this narrative, in order to be correctly understood, must be read backwards: the subsisting custom is the starting point, and the origin is a fictitious legend, invented by Xenophon himself.

The causes of the supposed degeneracy of the Persians since the time of Cyrus, and of the conversion of free and hardy into servile and luxurious habits, are in like manner traced by Plato, but avowedly by conjecture and divination, not by a reference to

(81) Herod. i. 146. A mythological legend, explanatory of Athenian usages, is reported by Augustine on the authority of Varro. In the time of Cecrops, the oracle declared that the Athenians were to decide for themselves whether the city was to be named after Poseidon or Athena. A public vote was taken; and as it was then the custom for both sexes to vote, all the men voted for the god, all the women (who exceeded the males by one) for the goddess. As a punishment for this decision, Poseidon decreed that the women should no longer vote, that no child should bear the mother's name, and that they should not be called Athenææ.—*De Civ. Dei*, xviii. 9. As to the name 'Αθηναία, see Steph. Byz. in 'Αθηναίαι, and Suidas in 'Αθηναίαις, where other reasons are given.

(82) See *Cyrop.* viii. 2, § 4. Compare the account of Cyrus the Younger, with respect to the same class of presents, in *Anab.* i. 9, § 25-7. Several points in the ideal Cyrus of the *Cyropædia* resemble the character of the real Cyrus in the *Anabasis*.

attested facts.⁽⁸³⁾ Plato, again, assigns a conjectural origin for the Syssitia, or public tables of the Lacedæmonians,⁽⁸⁴⁾ an institution which is by other writers referred to Lycurgus, though doubtless without any historical ground.⁽⁸⁵⁾

The histories of Theseus and Lycurgus, as narrated by Plutarch, and those of Romulus and Numa as narrated by the same biographer and by Dionysius, are constructed upon a similar plan. They form, severally, the primitive history of the Athenian, Lacedæmonian, and Roman states; and they are, in fact, a more tessellated combination of antiquarian legends, invented in order to serve as explanatory supports of the civil and religious institutions, and national customs, subsisting in the historical period. These various stories are put together and woven into an apparently connected narrative, with a due admixture of moral reflections and lessons of political wisdom. Thus, Theseus is described as having defeated the Amazons in a pitched battle near Athens, whence the Athenians celebrated the sacrifice Boëdromia, in the month Boëdromion.⁽⁸⁶⁾ The number of the Lacedæmonian gerontes is traced to the number of the conspirators with Lycurgus, two of whom, it is added, out of the thirty, lost courage at the last moment, and abandoned their companions.⁽⁸⁷⁾ The story of Alcander striking out the eye of Lycurgus with his stick, serves to explain the title of Minerva Optilectis, and also the Spartan custom of not carrying a stick in the public assembly.⁽⁸⁸⁾ So the origin of the Roman practice of augury,

(83) See *Leg.* iii. 12, p. 694-5. The Athenian interlocutor says: τὰ δ' αἰτία διελθωμεν. ἥ γάρ; afterwards he adds, βούλεσθε οἷον μαντεία διανοηθέντες χρέμεθα; also, μαντεύομαι δὴ νῦν περὶ γε Κύρου τὰ μὲν ἄλλ' αὐτὸν στρατηγὸν τε ἀγαθὸν εἶναι, &c.

(84) *Leg.* vi. 21, p. 780.

(85) See Plutarch, *Lycurg.* c. 10-12, where the motives of Lycurgus for establishing the Syssitia, and the opposition which he met from the rich, are described at length. Public tables were not peculiar to Sparta, see Müller's *Dorians*, b. iv. c. 3.

(86) *Plut.* c. 27.

(87) This not very wise explanation, which was rendered necessary by the two kings, is referred by Plutarch to Aristotle.—*Lyc.* c. 5.

(88) *Ib.* c. 11, and Pausan. iii. 18, 1, where the same legend is told of the goddess, under the title of Ophthalmitis. At Argos there was a temple

of the band of celeres, of the curiæ, of the triumph, the spolia opima, of the colonial system, of the forum, of the Consualia, and of many other ancient rites, is explained by the institution of Romulus; as the festival of Populifugia was held to be commemorative of his death.⁽⁸⁹⁾ Numa is represented as the founder of many religious ceremonies; though in some, as the establishment of the vestal virgins, the legend fluctuates between him and Romulus.⁽⁹⁰⁾ Servius, in like manner, is treated as the founder of the Roman census and system of classes, as well as of the rights of the plebeians. Thus, too, the belief that Numa was trained in the school of Pythagoras grew up in an age when the times of Numa and Pythagoras were forgotten. Numa was held to be distinguished for his wisdom, and an explanation for this wisdom was found in the philosophy of Pythagoras, although the supposed teacher lived many generations after the time assigned to his disciple.⁽⁹¹⁾ The later writers of antiquity, who deal with antiquarian subjects, abound in false ætiology of this sort.

Even with respect to customs and institutions which have sprung up within historical periods, the true origin is sometimes doubtful, and invention supplies the void. Discordant versions of the causes of popular usages and superstitions may be seen in treatises on mediæval antiquities—different origins are alleged for the institution of the Order of the Garter by Edward III.⁽⁹²⁾ Again, fanciful origins have been devised for the names of the suits of playing-cards, which have been explained as symbolical of the several orders or ranks in society. The Italian and Spanish suits have been said to signify by *spade*, or swords, the

of Minerva Ὀφειδερκής, which was said to have been founded by Diomedes, because Minerva removed the mist from his eyes.—Paus. ii. 25, § 2; *Iliad*, v. 127. Compare Müller, *Dor.* ii. 10, § 2.

(89) Dion. *A. R.* ii. 6, 13, 18, 23, 31, 34, 35, 50, 56. Plut. *Rom.* 15, 16, 20.

(90) Dion. *A. R.* ii. 64-5. Plut. *Rom.* 22; *Num.* 9-11.

(91) See Cic. *Tusc.* iv. 1; *De Rep.* ii. 15; Dion. Hal. ii. 59; Livy, i. 18; xl. 29; Plut. *Num.* i.

(92) See Selden, *Titles of Honour*, part ii. c. 5, § 40; *Works*, vol. iii. part i. p. 815.

nobility ; by *coppe*, cups or chalices, the clergy ; by *danari*, money, the order of citizens ; by *bastoni*, clubs or sticks, the peasantry. The French suits have been explained thus : *pique*, a lance or pike, used by knights in tournaments, represents the nobility ; *cœur* represents the clergy, the heart being the seat of belief ; *trèfle*, clover, designates the husbandmen ; the *carreau*, the head of an arrow, represents the vassals, among whom the archers were taken. The German suits were likewise brought under the same scheme of interpretation : *schellen*, little bells, were the ornament of princes, and were tied to hawks, whence they signified the nobility ; *herzen* denoted the clergy ; *grün*, leaves, represented the husbandmen or middle class, and *eicheln*, acorns, the woodmen or serfs.⁽⁹³⁾

Montesquieu's *Esprit des Loix* is, in great measure, a work of origins ; and, as such, it assigns the causes of laws and institutions often upon fanciful grounds. It takes certain general heads, such as climate, soil, religion, &c., and shows how certain institutions are determined by each cause ; in which process, causation is sometimes unduly simplified, and sometimes altogether fabricated. The explanation of polygamy belongs to the latter class.⁽⁹⁴⁾

§ 10 The disposition to assign false causes is not satisfied with such facts as have been enumerated, viz. religious and popular usages, laws, institutions, names, proverbs, &c. : fictions are invented, not only to account for real facts, but also to serve as the supports of principles and maxims which appear true and worthy of propagation. Hence the pious frauds of the church of Rome—the legends of the saints, the false decretals, the spurious reliques, the modern miracles, and other fabrications,

(93) Singer's *Researches into the History of Playing Cards*, p. 51-3. Another explanation was contrived for the French suits. They were supposed to be emblematic of war : *trèfles* is forage ; *piques*, pikes or powder-shovels ; *carreaux*, arrows, stones or lead to shoot with ; *cœurs*, hearts, to signify the courage of the soldiers.

(94) xvi. 4 ; compare the account of England in xix. 27. ' Montesquieu (says Gibbon, c. 26, *note*) labours to explain a difference, which has not existed, between the liberty of the Arabs and the perpetual slavery of the Tartars.'

intended to support a system which the authors of these deceptions believed to be true, and which they sought to strengthen by supplying false premises for a true conclusion.⁽⁹⁵⁾

§ 11 Fictions of law are similar in their nature: these are either proceedings or legal inferences founded on imaginary facts, but intended to forward the substantial ends of justice. In many cases, where, upon the occurrence of certain events, a certain legal consequence is desired, the occurrence of a certain other event, upon which that consequence would follow, is feigned. Thus, in the English law, if a custom has prevailed, or possession has subsisted, for a long time, a grant or a surrender is implied: it is held that the king cannot be nonsuited, and does not appear by his attorney; because, says Sir W. Blackstone, 'in contemplation of law he is always present in court.'⁽⁹⁶⁾ So, in the ordinary action of *assumpsit*, a *promise* or *undertaking* to pay on the part of the defendant is averred; though the support of the action is, in general, only a *quasi* promise or undertaking, that is to say, conduct which the law treats as equivalent to a promise or undertaking, and to which it therefore annexes the same consequences.⁽⁹⁷⁾ An example of this species of legal fiction is afforded by the expression of Charles VIII. of France, in his letters of pardon to the Duke of Orleans, where, speaking of the time when the duke was in arms against him, he says: 'lequel temps nous déclarons non avoir eu cours.'⁽⁹⁸⁾

Treating the legal conclusion as the effect, we may consider the legal fiction as the introduction of a false cause, supposed

(95) See Whately's *Errors of Romanism*, p. 176. 'That storks are to be found, and will only live in republics or free states, is a petty conceit to advance the opinion of popular polities, and from antipathies in nature to disparage monarchical government.'—Browne's *Vulgar Errors*, b. 3, c. 27, § 3.

(96) *Comm.* vol. i. 270.

(97) See Austin's *Prov. of Jurisprudence*, p. 336, note.

(98) Artaud's *Machiavel*, tom. i. p. 261. In like manner, the Athenians, in order to enable Demetrius to be initiated, *per cumulum*, in the Eleusinian mysteries without breaking the letter of the law, voted, first, that the month Munychion was Anthesterion, and then that it was Boëdromion.—Plut. *Dem.* 26.

for the purpose of getting at its legal consequences. Thus, if a man feloniously takes away goods in one county, and carries them through several counties, there is, in contemplation of law, a separate taking away in every successive county, though, in point of fact, there is not. In reality, the goods are only once taken away, but, for the convenience of administering justice, the same legal effects are made to follow as if the goods were truly taken away more than once. This taking itself may likewise be either actual or constructive; that is, either a real taking, in the common signification of that word, or the obtaining possession of the goods in such a manner as would not, in common language, be called a taking, but is made by law equivalent to it, and thus entails the same legal effects. An actual taking is defined to be, where the goods have been actually withdrawn from the owner's possession against his will, or without his consent, which is the meaning properly attributed to this word. A constructive taking is when the thief obtains possession of goods with the consent of the owner, or has them in his charge or keeping, and appropriates them to himself. Here, there is not what is commonly called a taking; but the same legal consequences ensue upon such acts as upon a real taking. Again, a constructive breaking, in burglary, is when there is no breaking in the literal and proper sense of the word, but there is some act (such as the raising of a latch, or the opening of a window) which the law, in reference to this crime, considers as equivalent to a breaking, and visits with the same consequences. So, presence at the commission of a crime is actual or constructive; which expressions have the same meaning as those just mentioned, that is to say, actual presence is when a person is really present, in the common and proper acceptation of that word—when he is within sight and hearing of the transaction: constructive presence is when a person is not present, but took such a part in the transaction as entails the same legal consequences as if he had really been present.

Fictitious suppositions of this sort are generally prompted by a love of conciseness and perspicuity of expression, though they

often produce confusion, and thus defeat their object. Instead of saying that acts done under certain circumstances entail certain consequences, and enumerating these consequences at length, it is found easier to refer this set of acts to a well-known legal class, by giving it a name which does not properly belong to them, but which will at once suggest its legal consequences, and obviate the necessity of stating them. Thus, when it is said that the possession of the servant is the possession of the master, it is meant that, when goods are in the actual keeping or custody of the servant, they are legally in his master's possession, and that the same legal consequences follow as if they were actually in the master's possession. So, when coining was made petty treason, and when trading in slaves on the high seas was made piracy, it was meant, not that the offences of coining or trading in slaves bore any resemblance to the crimes of treason or piracy, but only that, in each case, the punishment and legal consequences of the one would be the same as the punishment and legal consequences of the other.

§ 12 From the Roman law downwards, there has been a strong tendency among jurists to deduce recognised rights and obligations from a supposed but non-existing contract. Where an express contract exists, the legal rights and duties which it creates are in general distinct and well defined. Hence, in cases where it is wished that similar legal consequences should be drawn, which come within the spirit of the rules applicable to a contract, though they do not themselves involve any contract, the lawyer cuts the knot by saying that a contract is presumed, that there is a contract by intendment of law—that there are certain rights and obligations *quasi ex contractu*. Thus, the Roman law held that a guardian was bound to his ward by a quasi-contract. No actual contract subsists between them; but the guardian is liable to the same obligations as if he had bound himself by a contract.⁽⁹⁹⁾

(99) Concerning quasi-contracts, see *Inst.* iii. tit. 27, 'De Obligationibus quasi ex contractu.' Barbeyrac's *Notes on Puffendorf*, iii. 6, § 2; iv. 13, § 5.

Historians, as well as lawyers, have sometimes resorted to an imaginary contract, in order to serve as a support for a subsisting institution. Thus, we are told by Ephorus that the inhabitants of Helos were reduced to slavery by the Lacedæmonians upon certain conditions, one of which was, that they should never be emancipated by their masters,⁽¹⁰⁰⁾ a condition which no prisoners would stipulate for in their own behalf.

A more important example of the method of resorting to an imaginary contract as an explanation of true facts, is afforded by the speculations of many political philosophers upon the origin of law and government. From an early time, the cause of the political union, and of its characteristic consequences, has been sought in a voluntary compact, made by the members of the state, at some indefinite period, and binding them to the observance of the established constitution.

Thus, in a conversation reported by Xenophon, Socrates is described as asking Hippias what are the laws of a city: to which the latter answers, that 'they are the rules which the citizens have laid down in writing, having settled *by agreement* what they ought to do and avoid.'⁽¹⁰¹⁾ Plato likewise, in a celebrated passage of the *Dialogue* 'Crito,' represents Socrates as supposing himself to be addressed by the personified laws of his country, and reminded by them that, by escaping from prison, he would violate the solemn engagements and covenants into which he had voluntarily entered, to submit to the public acts of the state.⁽¹⁰²⁾ Again, the precise Aristotle lays it down, both in his *Politics*

(100) *Ap. Strab.* viii. 5, § 4. Compare *Philol. Mus.* vol. ii. p. 55, n. 19.

(101) ἃ οἱ πολῖται συνθέμενοι ἃ τε δεῖ ποιεῖν καὶ ὡς ἀπείχεσθαι ἐγγράψαντο — *Mem.* iv. 4, § 13. K. F. Hermann (*Ueber Gesetz*, p. 12) attributes the derivation of law from a contract to the Sophists—another instance, in addition to those collected by Mr. Grote (vol. viii.), in which a philosophical opinion is erroneously considered characteristic of 'the Sophists,' as a class. The rhetras of Lycurgus are *treaties* between different orders or powers in the Spartan state; these ancient laws are conceived under the form of compacts or conventions. Xenophon also speaks of *covenants* (συνθήκαι) which Lycurgus established between the king and the people.—*Rep. Lac.* 15, § 1.

(102) 'Crito,' §10-14. The words used are ὁμολογεῖν, ὁμολογία, and συνθήκαι.

and his *Rhetoric*, that law is a contract.⁽¹⁰³⁾ An ancient Greek orator, in a rhetorical enumeration of the attributes of law includes that of its being 'the common agreement of the state;' and the passage in which this expression occurs has been thought worthy of adoption by the compilers of the *Digest*.⁽¹⁰⁴⁾

Grotius, imbued with the doctrines of the ancient politicians, carried this view somewhat further. He lays it down, that 'inasmuch as the fulfilment of agreements is enjoined by the law of nature, the civil laws of the different states have flowed from this source. For those who had become members of any community, or had entered into subjection to any man or men—had either *expressly promised, or, from the nature of the transaction, must be understood to have tacitly promised*, that they would follow what either the major part of the body, or those to whom the power had been delegated, might have decreed.'⁽¹⁰⁵⁾ This passage contains the germ of the theory, which, by a more systematic and elaborate process, deduced the origin and nature of government from a fictitious event, entitled the *social contract*, or the *original covenant*.

This mode of accounting for the existence of government and the obligations of law appears to have come into vogue in England soon after the civil war; and its adoption at that time

(103) καὶ ὁ νόμος συνθήκη, καὶ καθάπερ ἔφη Λυκόφρων ὁ σοφιστής, ἐγγυητὴς ἀλλήλοις τῶν δικαίων.—*Pol.* iii. 9. καὶ ὅλως αὐτὸς ὁ νόμος συνθήκη τις ἐστίν.—*Rhet.* i. 15, § 21. εἰσὶ δὲ νόμοι. συλλήβδην μὲν εἰπεῖν ὁμολογήματα κοινὰ πόλεως, ἃ διὰ γραμμάτων ὀρίζει καὶ προστάττει πῶς χρὴ πράττειν ἕκαστα.—*Rhet. ad Alex.* i. 3, p. 1424, a. Bekker. A similar definition is in the second (spurious) epistle of Aristotle to Alexander, *Stahr's Aristotelica*, vol. ii. p. 179, 231, cited by Athenæus, xi. p. 508 A. Laws are συνθήκαι κοιναί, Dion. Hal. *Ant. Rom.* x. 4.

(104) πόλεως δὲ συνθήκη κοινή, Demosth. *cont. Aristogit.* i. p. 774, 21. The oration in which this passage occurs is of doubtful genuineness.—See Clinton, *Fast. Hell.* vol. ii. app. c. 20. The passage is, however, quoted in an extract of Marcian's *Institutes*, inserted in the *Digest*, i. 3, 2.

(105) 'Deinde vero cum jnris naturæ sit stare pactis (necessarius enim erat inter homines aliquis obligandi modus, neque vero alius modus naturalis fingi potest), ab hoc ipso fonte jura civilia fluxerunt. Nam qui se cæteri alieni aggregaverant, aut homini hominibusque subjecerant, hi aut expresse promiserant, aut ex negotii naturâ tacite promisisse debent intelligi, secuturos se id quod aut cæterâ pars major, aut hi quibus delata potestas erat, constituissent.'—*De J. B. et P. prol.* § 15.

was probably assisted by a recollection of the scriptural expressions respecting a covenant between Jehovah and the Jewish people, and, generally, respecting a covenant between God and man.⁽¹⁰⁶⁾ If the Mosaic law, and the scheme of the Christian dispensation, were figuratively described under the image of a covenant, the civil law of a political society might still more naturally be conceived in the same light.

The doctrine of the social compact (though, as commonly received, it was maintained by the friends of popular against those of monarchical government) first assumed a distinct and argumentative form in the writings of Hobbes.⁽¹⁰⁷⁾ According to Hobbes, the generation of a commonwealth, or state, consists in the submission of the wills of all to the will of one man, or assembly of men, who becomes their representative and bears their person. 'This (he adds) is more than consent or concord: it is a real unity of them all in one and the same person, made by covenant of every man with every man, in such manner as if every man should say to every man—I authorize and give up my right of governing myself to this man, or to this assembly of men, on this condition, that thou give up thy right to him, and authorize all his actions in like manner. This done, the multitude so united in one person is called a *commonwealth*—in Latin, *civitas*. This is the generation of that great Leviathan, or rather, to speak more reverently, of that mortal god, to whom we owe, under the immortal God, our peace and defence.' He proceeds to define a commonwealth as 'one person, of whose acts a great multitude, by mutual covenants one with another, have made themselves every one the author, to the end he may use the strength and means of them all as he shall think expedient for their peace and common defence.'

Hobbes, therefore, supposes the political union to be founded on a mutual compact of all, or of a majority, of its members,

(106) Hence the expressions ἡ παλαιὰ and καινὴ διαθήκη—the old and new covenant or law.—See Schleusner, *Lex. N. T.* in διαθήκη.

(107) See the treatise *De Cive*, c. 5 and 6; *Leviathan*, part ii. c. 17 and 18. The former work was published in 1646, the latter in 1651.

involving two stipulations—1, the formation of a community among the parties to the agreement: 2, subjection to a common superior. The first of these has received the name of *pactum unionis*; the second, of *pactum subjectionis*.

Puffendorf, though he disputed some parts of the theory of Hobbes, adopted its substance. He supposes the proceeding to consist of three stages: 1, a mutual agreement of several persons to form a political society; 2, an ordinance, regulating the form of government; 3, the government being established in virtue of this ordinance, the persons invested with the governing power undertake to promote the public good, and the others, at the same time, promise them a faithful obedience.⁽¹⁰⁸⁾

The doctrine of a covenant between king and people was maintained by the defenders of popular rights, and the opponents of regal prerogative at the revolution of 1688; and a declaration that the original contract between king and people had been broken by James II., was embodied in the resolution of Parliament which affirmed his abdication of the government, and the vacancy of the throne.⁽¹⁰⁹⁾ Mr. Macaulay describes this phrase as containing the 'quintessence of Whiggism.'⁽¹¹⁰⁾ Locke, accordingly, as the exponent of revolution principles, made this doctrine the foundation of civil society in his *Treatises on Government*. The chief novelty in Locke's treatment of the subject is the prominence which he gives to the state of nature, which the political state supersedes. 'The only way (he says) whereby any one divests himself of his natural liberty, and puts on the bonds of civil society, is by agreeing with other men to

(108) *L. of N. and N.* vii. 2, § 7, 8; and see the definition of a state, § 13. This work of Puffendorf was published in 1672, twenty-six years after the treatise *De Cive*.

(109) 28th January, 1688-9.

(110) *Hist. of England*, vol. ii. p. 639. That nations may make contracts, either express or implied, with their magistrates, is maintained by Algernon Sidney, *Discourses concerning Government*, c. 2, sect. 32. As to the antiquity of the idea of a compact between king and people in the Germanic nations, see Zacharia von Staate, vol. i. p. 65. Sir W. Temple, in his *Essay on the Original and Nature of Government*, written in 1672, speaks of contracts being given as the origin of governments by the great writers concerning politics and laws.—*Works*, vol. ii. p. 37.

join and unite into a community, for their comfortable, safe, and peaceable living one amongst other, in a secure enjoyment of their properties, and a greater security against any that are not of it. When any number of men have so consented to make one community or government, they are thereby presently incorporated, and make one body politic, wherein the majority have a right to act and conclude the rest.⁽¹¹¹⁾ Whosoever, therefore, out of a state of nature unite into a community, must be understood to give up all the power necessary to the ends for which they unite into society to the majority of the community, unless they expressly agreed in any number greater than the majority. And this is done by barely agreeing to unite into one political society, which is all the compact that is, or needs be, between the individuals that enter into or make up a commonwealth. And thus, that which begins and actually constitutes any political society, is nothing but the consent of any number of freemen, capable of a majority, to unite and incorporate into such a society. And this is that, and that only, which did, or could, give beginning to any lawful government in the world.⁽¹¹²⁾

Locke's doctrine of a primitive compact as the origin of political society, has been subsequently followed by numerous writers; but the most celebrated and the most important of these is Rousseau, whose *Contrat Social* furnished the ideas and phraseology which were current during the French revolution of 1789. Rousseau conceives the political union as an agreement of partnership, by which the several members of the community place themselves under the direction of the general will.⁽¹¹³⁾ He represents, however, the compact as limited to the act of asso-

(111) *Of Civil Government*, § 95.

(112) *Ib.* § 99. Locke, in his *Third Letter on Toleration*, *Works*, vol. vi. p. 211-8, likewise introduces the doctrine of a fictitious compact, in order to support his theory of the limitation of the province of the state to temporal interests. The doctrine of a primitive state of nature, and of the subsequent formation of government by a compact, is maintained by Filangieri, *Scienza della Legislazione*, b. 1, c. i.

(113) *Ib.* i. c. 6.

ciation, and he denies the existence of any contract between the sovereign and the people.⁽¹¹⁴⁾

The doctrine concerning primitive liberty in a state of nature, followed by a surrender of natural rights upon the institution of government, according to the theory of the social compact, may be compared with the doctrine of the Roman jurists concerning slavery, which was treated as an institution of civil law, whereas, according to the law of nature, all men are equal.⁽¹¹⁵⁾

The earlier advocates of the doctrine of the social compact maintained it on the ground of its actual existence. They asserted that this account of the origin of political societies was historically true. Thus, Locke combats the objection, that no instances are to be found in history of such an event having been the cause of a government, and alleges facts in support of his theory;⁽¹¹⁶⁾ and it is only on this ground that the doctrine can be maintained. But the impugners of the doctrine denied the historical existence of any such compact, and asserted that the alleged transaction was fictitious.⁽¹¹⁷⁾ The defenders of a social compact have been unable to prove its reality, and hence they have taken refuge in the hypothesis of a *tacit* or *implied*

(114) 'Il n'y a qu'un contrat dans l'état, c'est celui de l'association; et celui-là seul en exclut tout autre. On ne sauroit imaginer aucun contrat public qui ne fût une violation du premier.'—*Liv. iii. c. 16.*

(115) 'Quod attinet ad jus civile, servi pro nullis habentur: non tamen et jure naturali, quia, quod ad jus naturale attinet, omnes homines æquales sunt.'—*Dig. L. 17, § 32.* 'Libertas naturali jure continetur, et dominatio ex gentium jure introducta est.'—*Ib. xii. 6, § 64.*

(116) *Ib.* § 100-112.

(117) This objection is stated and argued at length by Hume, in his excellent *Essay on the Original Contract*, part ii. essay 12. The theory of Rousseau is rejected on similar grounds by M. Comte, *Théorie de Législation*, liv. i. c. 11. The derivation of government from contracts had been rejected by Sir W. Temple, in his *Essay on the Original and Nature of Governments*; *Works*, vol. ii. p. 37, 46. Kant (*Rechtslehre*, th. ii. abschn. i.) treats the social compact as a frivolous and unpractical question. Heeren (*On Political Theories*, p. 239) remarks that a social contract 'neither was nor could be actually concluded.' The doctrine of the social compact is subjected to an exhaustive analysis, and completely refuted by Mr. Austin, *Prov. of Jurisprudence*, p. 331-71. Stahl likewise (*Philosophie des Rechts*, vol. ii. part ii. p. 142) rejects the doctrine as untenable, as does Godwin, *Enquiry concerning Political Justice*, b. iii. c. 2 and 3.

contract ;⁽¹¹⁸⁾ that is to say, a transaction which did not assume the strict form of a contract, but which the parties understood to be such, and which virtually amounted to the proffer and acceptance of a promise. By this contrivance, the difficulty of proof seems to be diminished ; but it is, in truth, equally impossible to establish the existence of any such virtual compact by historical evidence.

As the social compact is a hypothesis, and not a fact ; as it is a mythical substratum for a real state of things, invested only with the forms of reality, it varies, like the legends of mythology, and assumes different phases according to the fancy of the theorist. 'A complete though concise exposition (says Mr. Austin) of the various forms or shapes in which various writers imagine and render the hypothesis, would fill a considerable volume.'⁽¹¹⁹⁾ This, however, all the hypotheses have in common,—that they assume a really existing state of things, namely, political law and government, to be the effect of a fictitious cause, namely, a compact which never was made. All these theories have grown out of an unwillingness to admit the simple fact, that law is a command, and not a contract ; or rather, that it is a simple command, and that it does not derive its force from a pre-existing contract. Hence, the whole fabric of political government, and all the obligations of political law, have been made to rest on a fiction ; just as an imaginary engagement of mutual fidelity is supplied by the poet's fancy for the community of bees.

——Rege incolumi mens omnibus nna est,
Amisso rupere fidem.⁽¹²⁰⁾

(118) See Zachariä, *ib.* p. 70. Puffendorf lays it down, that the consent of the members of the community to the original convention may be express or tacit (vii. 2, § 7). Compare also the words of Grotius, cited above (p. 425, n. 105).

(119) *ib.* p. 337. Several of these varieties are enumerated and examined by Zachariä, *ib.* p. 71-81.

(120) 'Instead of looking for the principles of politics in their true sources—that is to say, in the nature of the affections of mankind, and of those secret ties by which they are united together in a state of society, men have treated that science in the same manner as they did natural philosophy in the times of Aristotle, continually recurring to occult causes and principles, from which no useful consequence could be drawn. Thus,

The disposition to supply fictitious causes has exercised as extensive an influence in physical and metaphysical, as in political speculation, and as in historical composition. From the infancy of philosophical reasoning there has been a tendency to imagine occult entities, not the objects of sensation or consciousness, as the principles or causes of apparent phenomena. Hence, general terms have been explained by the Platonic ideas resident in the divine mind. The external world has been conceived as supported by a substratum of intangible and invisible substance or matter, to which sensible phenomena are attached: hence the humours, spirits, &c., of certain medical schools; hence the various contrivances by which sensations have been supposed to be conveyed to the sensorium; hence the phlogiston of chemists and the vortices of Descartes.

§ 13 In the cases of historical or political causation which we have been considering, the logical connexion between premises and conclusion serves practically as a substitute for an attestation of the fact upon which the inference is founded. The mind is primarily directed to the *sufficiency* of the alleged cause; and being satisfied with the explanation, considered merely in a logical point of view, omits to inquire whether the circumstance which is affirmed to be the cause ever really happened. Struck by the juxtaposition of two facts which we have not before considered in connexion with each other, and confining our attention to their alleged relation, we forget to ask the question as to the testimony to the existence of the supposed

in order to ground particular assertions, they have much used the word constitution in a personal sense—the *constitution loves*, the *constitution forbids*, and the like. At other times they have had recourse to luxury, in order to explain certain events; and at others, to a still more occult cause, which they have called *corruption*; and abundance of comparisons, drawn from the human body, have been also used for the same purposes. Nor is it only the obscurity of the writings of politicians, and the impossibility of applying their speculative doctrines to practical uses, that proves that some peculiar and uncommon difficulties attend the investigation of political truths; but the singular perplexity which men in general, even the ablest, labour under when they attempt to discuss abstract questions in politics, also justifies this observation, and proves that the true first principles of this science, whatever they are, lie deep in both the human heart and understanding.—De Lolme, *Constitution of England*, ch. 18.

cause, regarded as an insulated phenomenon. In every case, the point of departure is some positive and well-established fact, either a historical event, or a matter of general notoriety, such as the existence of a government or of a national usage. In assigning the cause of this fact, recourse may be had to fiction, in the absence of authentic information, or on account of defective methods of reasoning; but the fact itself is true. Though the support may be rotten, the thing supported is substantial. The invention of imaginary causes of real phenomena resembles the process which takes place in dreams, when a detailed fictitious story is supplied by the mind during sleep, to account for a real sensation, imperfectly felt, and not referred to its true cause. Sometimes, however, the process is inverted, and a forgery is executed to serve as the memorial of a real fact or event. Such, for example, are the wood and nails of the true cross, and other relics preserved in Roman-catholic churches. Such, too, are fabricated busts and pictures of celebrated men; as the complete series of the portraits of the popes at Rome,⁽¹²¹⁾ and of the Kings of Scotland at Holyrood House. Fabrications of this sort are not intended to support and confirm the belief in a certain fact; but they rather grow out of it, and are designed chiefly to satisfy the curiosity which the existence of the belief engenders. Thus, if we admire any historical personage, we feel a natural desire to become acquainted with the lineaments of his face, and we see with interest a statue or portrait of his person. This sight does not strengthen our belief in the reality of his existence, though it increases the vividness of our conception of him; inasmuch as we constantly associate with our idea of him the same set of features, just as if he were a living man.

§ 14 The process which we have just described is sometimes carried a step further. Not only are there fabrications to serve as memorials of real facts, but there are also fabrications

(121) There is a complete series of portraits of the popes in St. Paul's church, at Rome; but they are found to be imaginary for the twelfth and thirteenth centuries.—Raumer's *Hohenstaufen*, vol. vi. p. 73.

to serve as memorials of false facts. In this case, a strong belief in the reality of the event serves as a substitute for authentic proof of its occurrence. Examples are afforded by the relics of imaginary persons and things, many of which were shown in ancient Greece and Italy; as the egg of Leda,⁽¹²²⁾ specimens of the clay from which Prometheus formed the human race,⁽¹²³⁾ the sacrificial knife of Iphigenia, a fragment of the ship Argo,⁽¹²⁴⁾ the ship of Theseus,⁽¹²⁵⁾ the ivory rib of Pelops,⁽¹²⁶⁾ the cup of Ulysses at Circeum,⁽¹²⁷⁾ the tools with which Epeus made the wooden horse,⁽¹²⁸⁾ the whetstone of Attius Navius,⁽¹²⁹⁾ the boat of Æneas,⁽¹³⁰⁾ the teeth of the Calydonian boar,⁽¹³¹⁾ &c. Of a similar nature are the houses of Dives and Lazarus which are shown at Jerusalem, and the round of Jacob's ladder, which is said to have been preserved in a church in Spain.

(122) Pausan. iii. 16, § 1. It was suspended by ribands from the ceiling of a temple in Sparta; it was doubtless the egg of an ostrich.

(123) Pausan. x. 4, § 4. These clay stones had a smell resembling that of human flesh, which circumstance doubtless suggested the idea.

(124) Martial, vii. 19.

(125) Plutarch, *Thes.* 23.

(126) Plin. *H. N.* xxviii. 6.

(127) Strabo, v. 3, § 6.

(128) Pseud. Aristot. *Mirab. Ausa*, c. 108.

(129) Niebuhr, *Hist. of Rome*, vol. i. p. 307.

(130) Procop. *de Bell. Goth.* iv. 22.

(131) *Ib.* i. 15. Upon Grecian relics, see Wachsmuth, *Hellen. Alt.* ii. 2, p. 111.—Grote, vol. i. p. 607. Monuments only prove facts, when those facts are attested by good contemporary evidence.—Voltaire, *Essai sur les Mœurs*, c. 197.

CHAPTER XI.

ON THE DETERMINATION OF HYPOTHETICAL
CAUSES IN POLITICS.

§ 1 **I**N the preceding chapters, we have investigated at length the problem of causation in politics, so far as it concerns the past, and is a positive and historical problem. We have now to consider the two cases of the hypothetical problem of political causation, which, instead of referring to the past, is either irrespective of time, or relates exclusively to the future.

The first of these is—given a supposed general political effect, to find the cause. Thus, the effect supposed may be the best government, the best administration of justice, or the best system of taxation; and the problem is, to find the causes adequate to the production of the proposed effects. Of this nature is the inquiry of Aristotle, in his *Politics*: What are the circumstances which tend to preserve respectively the three forms of government—monarchy, oligarchy, and democracy?

This problem is perfectly general in its terms; it has reference to no individual case, nor to any given time or place. If it is capable of solution, the cause assigned must be true both of the past and the future; if, for example, it can be shown that some one mode of taxation is the best possible, all good systems of taxation which have existed, and all good systems of taxation which may exist hereafter, have approximated, and will approximate more or less closely, to this general ideal standard.

The solution of this general problem of causation involves the general determination of the means best fitted to bring about the given end. The given end is the hypothetical effect; and the fittest means—the subject of inquiry—constitute the hypothetical cause. For instance, if the supposed effect is the best mode of administering criminal justice; this effect is the end, for which we are to find the proper means; and these means

will be the circumstances which, together, form the cause, or are the necessary conditions for the production of the effect.

If, on the examination of all the actual historical cases of good government, good taxation, or a good administration of justice, it appeared that certain antecedents were constantly present, a general law of causation might be inferred, which, if confirmed by an independent process of verification, might be admitted as universal. Most of the speculators on government have assumed that such a process is practicable, and have attempted, by methods of different kinds, to obtain such general results. For the present, we merely indicate the nature of the general hypothetical problem, without inquiring how far it can be effectually solved. We shall have occasion to examine this question more fully hereafter, in connexion with the subject of political theory.⁽¹⁾

§ 2 Secondly, we have to consider the *special* case of the hypothetical problem of causation. This is the problem of the practical politician, and it resolves itself into finding the means for attaining some special end—into discovering the cause or agency proper for the production of a certain definite effect; as, how to repress a class of offences prevalent in a certain country; how to suppress a certain rebellion; how to raise a certain sum of money required by a government; how to conquer a certain enemy.

For the due solution of a special or practical problem of this sort, theoretical knowledge, combined with experience, is requisite. The politician ought to understand the general principles which are applicable to the case; he ought likewise, from his experience, to be master of analogous instances and precedents, serving to guide his discretion in the matter. The problem consists in finding the means best adapted to accomplish the given purpose; in selecting, out of the various causes capable of producing the proposed effect, that cause which is most fitting. The proposed end may be attainable by different means;

(1) Below, ch. xv.

for example, a town may be taken immediately by storm, or it may be reduced by a long-continued blockade. It is the business of the practical politician to compare these different means, and to give the preference to that which is at once effectual, and free from incidental objections.

In chusing between different hypotheses with respect to the causation of a particular effect, which has actually occurred, we are guided solely by considerations of *truth*. That hypothesis is selected which best accords with all the circumstances, and thus gives the strongest assurance of hitting the fact. There can be but one *vera causa*, and that one must be preferred to every other. In chusing, however, between different hypotheses with respect to the causation of a particular effect, which has not occurred, and is as yet only hypothetical, there is no question of *truth*. The choice respects the fitness or expediency of means for the attainment of the proposed end; it involves considerations of prudence, discretion, or wisdom in action, but it has no reference to the objective reality of past events.

As we have already seen, the scientific problem of causation in physics differs from the historical problem of causation in politics, in respect of its generality. When the cause of a particular eclipse, or rainbow, or flash of lightning, has been discovered, the law of the phenomenon in question, for all its reappearances, has been determined. In like manner, if the cause of a particular volcanic eruption, or earthquake, or fall of aërolites, could be detected, the whole aggregate of similar phenomena would doubtless be explained. The single case would, for the purposes of scientific inquiry, represent the entire class. But when the cause of a particular change of government, or revolution, or military victory, has been assigned, the explanation does not apply to all other events of the same class; as human affairs do not return in constant cycles, nor are repeated in any form of identical recurrence, the cause of each historical event must be assigned independently as it occurs. How far these causes may be generalized, so as to guide our future practice by our past experience, we shall inquire hereafter.

On the other hand, the hypothetical problem of causation in physics bears a close analogy to the corresponding problem in politics. The ordinary problem of the application of physics to practice, is to find the cause of a hypothetical effect, or, in other words, to find the means to a given end. For example, let the hypothetical effect be to bridge a river, to exclude the sea, to navigate a ship, to construct a balloon, to measure the degrees of heat, moisture, pressure of the atmosphere, weight, &c., the practical problem consists in devising the cause which will produce it—in contriving the means fitted to attain this end. Making allowances for the difference of the subject-matter, there is a close analogy between the procedure of the artisan or mechanic in practical physics, and that of the politician in the preparation of practical measures.

CHAPTER XII.

ON THE DETERMINATION OF THE POSITIVE
EFFECTS OF A POLITICAL CAUSE.

§ 1 **WE** have now examined so much of the problem of political causation as concerns the determination of causes, both positive and hypothetical. We have attempted to trace the logical methods by which, when certain phenomena, actual or supposed, are propounded for explanation, their cause can be assigned. Our next task must be to consider this problem in the reverse order, and, instead of mounting from effects to causes, to descend from causes to effects. Of this problem, as in the investigation of political causes, there are two cases, which we shall examine separately—the positive, and the hypothetical. We may either be called upon to determine the effects, or consequences, which have actually flowed from a past historical fact, or we may be called upon to divine the effects which a hypothetical cause may produce generally, or at some given future period. Without further introduction, we proceed at once to consider the methods by which the positive branch of this problem is solved.

The determination of the positive effects of a past political cause, is properly a problem for the historian. It may likewise occupy the speculative politician; but in the solution of it, he departs from his own province, and trenches upon historical ground. The historian and the political speculator handle this problem with a scientific object, and for the mere purpose of establishing the truth, without reference to any ulterior practical end. The practical politician, on the other hand, is frequently called upon to investigate the actual effects of laws, treaties, or other political measures, or political events, with a view, not to mere historical truth, but to some immediate subject of practice and action. The proceeding in both cases is similar,

though the end may be different; and thus the practical statesman may be assisted in his researches by the labours of the historian.

We may exemplify the historical problem by conceiving that it is proposed to determine the effects of such events as the following: the defeat of Xerxes, the expedition of Alexander into Asia, the invasion of the Roman empire by the barbarians, the Crusades, the Reformation, the Thirty Years' War, the English Revolution of 1688, the American Independence, the French Revolution of 1789, the Peace of 1815. Many instances of the solution of this problem might be cited from the works of historians; but their mode of treating the subject is so well known as scarcely to require a detailed illustration.⁽¹⁾

The logical methods for the investigation of effects are similar to those for the investigation of causes, and have been explained in a former chapter.⁽²⁾ Inasmuch as the Methods of Agreement and of Difference, and the other modes of argument there described, are applicable generally to the discovery of causation, they serve equally for determining causes from effects, and effects from causes. For instance, let it be supposed that, by the Method of Difference, we have BC and bc , ABC and abc , we may as well infer that a is the effect of A , if we are in search of effects, as we may infer that A is the cause of a , if we are in search of causes. Thus if, on the arrival of a large supply of any commodity, its price falls, and we are required to account for the fall of price, we may infer, by the Method of Difference, that the arrival of the supply is the cause of the fall of price. On the other hand, if we are required to find the effect produced by the arrival of the supply, we may infer, by the same method, that the fall of price is the effect of the arrival of the supply. Suppose, again, that a political revolution has been immediately followed by a commercial crisis; we may either, according to the question proposed, infer by the same method that the revolution is the cause of the crisis, or that the crisis is the effect of the revolution.

(1) See, for example, the passage of Gibbon on the effects of the crusades, c. 61 *ad fin.*, and the treatise of Heeren on the subject.

(2) Ch. ix.

It has been already shown⁽³⁾ that political causes are rarely simple, and that they are in general compounded of a variety of circumstances, some positive, and others negative, forming together the conditions necessary for the production of a given effect. When, therefore, we are called on to assign the cause of an effect, we proceed in general to construct a composite cause out of numerous facts, which, taken together, have contributed to the supposed result. If the problem is to trace the effects of a given cause, we must bear in mind that this cause does not act singly, but that its operation must be traced in combination with other circumstances. However important the fact selected may be, it is necessary, in order to exhibit the entire series of causation with accuracy, that *other* conditioning elements should be co-ordinated with it. Thus, if it were proposed to trace the effects of the death of Alexander the Great, the assassination of Julius Cæsar, or the fall of Napoleon at Waterloo, numerous other contemporary circumstances and combinations of political facts must be taken into consideration, together with each of these events, before its consequences could be pointed out. Sometimes, indeed, an expression may be so general as to include all or many of the contemporary influences bearing upon the question: thus, if we are to find the effects of the Reformation, or the French revolution of 1789, these expressions are sufficiently general to comprehend the contemporary facts which conspire to produce the combined effects.

Accordingly, we may observe that similar influences may, in different countries, produce different results if they are combined with different agencies. Thus, the preaching of the Reformers led, in Germany, the Low Countries, England, and Scotland, to the abolition of the Roman power, whereas in Italy and Spain it gave rise to the establishment of the order of Jesuits, an increased activity of the Inquisition, a awakened spirit of polemics, and a more rigid compression of heretical opinion. Again, the severity of the measures for the extirpation of heresy, adopted in the countries of catholic ascendancy, were, to a great extent, efficient for their purpose, but increased the strength of the pro-

(3) Ch. ix. § 2.

testant spirit in the protestant countries.(") In politics, a force which crushes in one place often engenders reaction in another. So the French revolution, which, on the continent, overthrew old systems of government and old modes of thought, in England checked the progress of political reform, by associating the idea of change with revolutionary excesses and anarchy, and by thus giving a new strength to conservative opinion. The repugnance to slavery, which induced the English to emancipate the negro slaves in their colonies, and which has prevailed to some extent in the northern states of the American union, has caused the southern states to employ additional repressive measures, and to exercise a stronger system of coercion towards their slaves. Montesquieu remarks, that similar legal enactments do not always produce the same effects in different countries; and he cites, as an example, a prohibition to keep more than a certain amount of coined money, which he considers to have been a wholesome measure at Rome, while in France, at the time of Law, it produced very disastrous results.(")

A political cause of this kind may be compared with a chemical agent, which, in combination with different substances, produces wholly different effects. Or it may be compared with a medicine, which, according to the persons to whom it is administered, or according to the state of health of the same person, sometimes produces one effect, and sometimes another.(")

(4) 'Ce tribunal [the inquisition], inventé pour extirper les hérésies, est précisément ce qui éloigne le plus les protestans de l'église Romaine.' —Voltaire, *Essai sur les Mœurs*, c. 140.

(5) *Esprit des Loix*, xxix. c. 6.

(6) 'Minime etiam licet medico, aut in experientiam aut sanam rationationem incumbenti, hujusmodi effatis, quæ multis semper in ore sunt, et ab iis pro veris, fixis, et immutabilibus habentur, semet impedire:—'Eandem causam eundem semper præstare effectum; 'eodem vel similes effectus ab iisdem vel similibus causis semper oriri; 'magnitudinem effectus semper pro ratâ parte respondere magnitudini cause,' &c. Ex his enim effatis, posteriora dno manifestissime falsa et futilia sunt, et primum adeo vagum et generale, ut quamvis sano sensu verissimum sit, tamen temere receptum ad gravissimos errores perducatur. Non enim verum est eandem causam eundem semper habere effectum; nam hic multum pendet a conditione rei quæ causâ quâvis affici debet, et etiam multarum rerum quæ primo aspectu nihil fere ad effectum manifestum conferre visæ essent. Has vero varias conditiones, sæpe neque intelligere, neque prævidere,

§ 2 In stating a problem of political causation, we can isolate a particular event, and require that its consequences be assigned. But we ought to bear in mind that this isolation is imaginary, that it exists only in our own thoughts, and that the event in question has operated in combination with numerous other social elements—to some aggregate of which, and not to any one event, the political results are due. We may treat the event in question as the centre of a group, all the other members of which are accessaries—but we should beware of falling into the practical error of supposing that the event in question really operates *in vacuo*, disengaged from accompanying influences. We can, it is true, conceive any political cause acting freely and singly; we can image to ourselves its *tendencies*—in other words, its effects, if it were uncontrolled by foreign elements. But this is a hypothetical, not a positive problem, and will be properly considered in the following chapter.

§ 3 There is another problem with respect to the effects of a historical cause, which, though its data are hypothetical, and its solution is conjectural, yet, as it illustrates the past, and is generally treated in connexion with history, may be most appropriately treated in this chapter. The problem to which we allude is commonly stated in this form: 'What would have been the result if certain events had happened otherwise than in the manner in which they actually happened? What would have been the consequence if certain causes had been absent, and certain other causes had been present in their place?' For example, Livy discusses the question, What would have been the event of a war between Alexander the Great and the Roman republic, if the former had turned his arms against Italy.⁽⁷⁾ He attempts

neque præsentis scire possumus. Verisimile est (siquidem certum dici nequit), et omnis scientiæ naturæ principium et fundamentum, naturæ cursum et ordinem constantem et immutabilem esse, eandemque igitur causam eundem semper præstare effectum, dummodo et ipsa prorsus eadem sit aliæque res similiter omnino se habeant; *sin minus et in medicinâ pariter et in omnibus aliis rebus, diversissimi aliquando effectus ab eâdem manifestâ causâ observantur*; quod profecto non mirum, cum hæc non plena sit causa, sed pars tantum causæ mutationis quæ sequitur.—Gregory, *Concept. Medic.* § 1161.

(7) 'Ut querere libeat, quinam eventus Romanis rebus, si cum Alex-

to determine the probable issue of the contest if Alexander had attacked the Romans; and he states at length his reasons for thinking, that Alexander would have found the Romans more formidable antagonists than he found the Asiatics. Machiavel, again, in his *Discorsi*, examines the question, whether the Romans would have conquered the neighbouring nations, and reduced them to dependent provinces, if the use of artillery had been then known. He declares it to be the prevalent opinion, that the use of fire-arms would have prevented their conquests—an opinion which he investigates at length, and controverts with great force.⁽⁸⁾ So Paruta, in his *Discorsi*, proposes and investigates the question, whether the Italian princes would have done wisely in attacking the army of Charles VIII. on his return from Italy, after the conquest of the kingdom of Naples.⁽⁹⁾

In like manner, we may ask, with Colonel Mure, what would have been the state of literature and of the fine arts among the nations of modern Europe, if the influence of the Greek models were conceived to be withdrawn.⁽¹⁰⁾ So we may speculate as to what would have been the fate of Europe if the Persians had defeated the Greeks at Marathon, Salamis, or Plataea; or if the Saracens had defeated Charles Martel at the battle of Tours. We may ask whether the Athenians would have prevailed at Syracuse, if Alcibiades had not been recalled.⁽¹¹⁾ We may con-

andro foret bellatum, futurus fuerit.'—ix. 17. Compare Bayle, *Diet. art.* 'Macedoine,' note 2. Paruta, *Discorsi Politici*, lib. i. disc. 2 ('Se Alessandro Magno si fosse volto con l'esercito vittorioso in Italia, quale successo averebbero avuto le cose de' Romani'), decides that Alexander would have had the advantage. Mr. Williams (*Life of Alexander the Great*, ch. 15, *ad fin.*) likewise disputes Livy's conclusions, and maintains that Alexander would have defeated and subjugated the Romans, if he had made the attempt. The same view is taken by Niebuhr, *Hist. of Rome*, vol. iii. p. 170.

(8) *Disc.* ii. 17. He remarks that artillery is far more detrimental to the defensive than to the offensive side. All subsequent experience confirms the truth of this dictum. No fortification, not greatly assisted by nature, is now impregnable.

(9) ii. 4.

(10) See Mure's *History of the Language and Literature of Ancient Greece*, b. i. ch. 7, § 4.

(11) See Plutarch, *Alcib.* 32, cf. 38.

sider what would have been the character of the Gaulish population, if the immigration of the Germans under Ariovistus had not been arrested by Cæsar, and the invading tribes driven back across the Rhine. Again, we may conjecture what would have been the course of English history if Charles I. had either prevailed over his parliament, or if the war had been cut short by an amicable compromise; if Cromwell had been succeeded by an able son, or if James II. had succeeded in establishing catholicism. Lord Clarendon thinks that if the Lord Keeper Coventry had lived until the parliament of 1640, he might have prevented its angry dissolution;⁽¹²⁾ the same historian likewise expresses an opinion, that if the king had returned to Whitehall after the queen's departure for Holland, in 1642, he might, by moderate concessions, have satisfied the leaders of the parliament.⁽¹³⁾ The recent history of France, in particular, has often provoked this sort of speculation. Many persons have asked themselves what

(12) 'In this interval, between the sealing of the writs and the convention of a parliament, the lord keeper Coventry died (January, 1640), to the king's great detriment, rather than to his own. So much hath been said already of this great man, that there shall be no further enlargement in this place than to say, that he was a very wise and excellent person, and had a rare felicity, in being looked upon generally throughout the kingdom with great affection and a singular esteem, when very few other men in any high trust were so; and it is very probable, if he had lived to the sitting of that parliament, when, whatever lurked in the hearts of any, there was not the least outward appearance of any irreverence to the crown, that he might have had great authority in the forming those counsels, which might have preserved it from so unhappy a dissolution.'—*History of the Rebellion*, b. ii. vol. i. p. 231; ed. 8vo.

(13) *Life*, vol. i. p. 109; ed. 8vo. Mr. Hallam (*Constitutional Hist. of Engl.* vol. ii. p. 204) contests this opinion. Compare Mr. Hallam's remarks (*ib.* p. 197) on the advantages of a non-contemporary judgment: 'We are, in truth, after a lapse of ages, often able to form a better judgment of the course that ought to have been pursued in political emergencies than those who stood nearest to the scene. Not only we have our knowledge of the event to guide and correct our imaginary determinations; but we are free from those fallacious rumours, those pretended secrets, those imperfect and illusive views, those personal prepossessions, which in every age warp the political conduct of the most well-meaning. The characters of individuals, so frequently misrepresented by flattery or party-rage, stand out to us revealed by the tenour of their entire lives, or by the comparison of historical anecdotes, and that more authentic information which is reserved for posterity. Looking as it were from an eminence, we can take a more comprehensive range, and class better the objects before us in their due proportions, and in their bearings on one another.'

would have been the fate of that country if the early events of the revolution of 1789 had been guided by a wise and firm government, and if the vengeance of the popular party had not been provoked by foreign invasion. The latter idea is embodied in the title of the history of Droz.⁽¹⁴⁾ This writer might, consistently with the title of his work, have discussed the question: 'What would have happened if the political elements in France, in the years 1788-9, had been subjected to a different treatment, and placed under the operation of a different set of influences?' So Virgil supposes Diomede to say, in his answer to the ambassadors of Latinus, that if there had been two more warriors in the Trojan ranks of equal prowess with Æneas, the event of the Trojan war would have been reversed, and the Trojans, not the Greeks, would have been the victorious invaders:

Si duo præterea tales Idæa tulisset
Terra viros, ultro Inachias venisset ad arces
Dardanus, et versis lugeret Græcia fatis. ⁽¹⁵⁾

In reading the historical account of the deliberations of counsellors, in which discordant advice upon some pending question of public policy is given, we are often led to consider what would have been the result, if the advice which was rejected had been preferred to that which was adopted. Thus, Herodotus appears to think, that if the Ionians had adopted the advice of Thales, to form a federal league with a common executive council, they might have effectually resisted the aggression of Cræsus, and have maintained their independence.⁽¹⁶⁾ He adds his opinion that they might, at the time of their subjugation by Cyrus, have avoided submission to the Persian yoke, by abandoning their several cities and islands, and transporting themselves to the island of Sardinia, according to the advice of Bias of Pricne.⁽¹⁷⁾

(14) *Histoire de Louis XVI. pendant les Années où l'on pouvait prévenir ou diriger la Révolution Française.*

(15) *Æn.* xi. 285. The thought is borrowed from Agamemnon's compliment to Nestor, in *Iliad*, ii. 371.

(16) Herod. i. 170. See Grote, *Hist. of Gr.* vol. iii. p. 346.

(17) *Ib.* Mr. Grote remarks of this advice, that 'Herodotus bestows upon it the most unqualified commendation, and regrets that it was not acted upon. Had such been the case, the subsequent history of Carthage,

Descending to more modern times, we may reflect on the probable subsequent course of events, if Mr. Burke's motion for conciliation with America had been carried in 1775, or if Mr. Pitt's plan for combining the repeal of catholic disabilities, and the endowment of the Irish catholic clergy, with the Irish Union had not been frustrated. Sometimes the historian himself, in reporting the decision of a deliberative body, remarks that the course rejected was preferable to that adopted, and that the decision was fraught with disastrous consequences, which a different course would wholly or in part have prevented. Thus Botta, after having reported the speeches delivered in the Venetian senate in 1793—on the one hand advising, on the other dissuading, an armed neutrality—declares his opinion that the worse and not the better counsel was followed, and that the decision in favour of an unarmed neutrality was the principal cause of the ruin of the republic.⁽¹⁸⁾

A discussion as to the probable issue of a different contingency, or the adoption of different counsels, though it can never lead to a certain conclusion, is nevertheless often highly instructive; and, in truth, history cannot be properly written, unless the

Sicily, and even Rome, might have been sensibly altered.'—*Ib.* vol. iv. p. 278; comp. p. 400. But the extreme unhealthiness of Sardinia appears to have been unknown both to the Ionians and to Herodotus. This circumstance alone would have been a fatal obstacle to the success of a great Ionic settlement in that island. See Tacit. *Ann.* ii. 85; and Smyth's *Present State of Sardinia*, London, 1828. The exiled Messenians, after the battle of Ira, are stated to have deliberated on the project of occupying Sardinia, before they were invited to Zancle, in Sicily.—Paus. iv. 23.

(18) 'Da questa prima cagione sorse la rovina della repubblica; e se per l'oscurità e l'incertezza degli eventi umani non si potrebbe affermare, che il consiglio contrario l'avrebbe condotta a salvamento, e se veramente era destinato dai cieli, ch' ella perisse, certo è almeno, che sarebbe perita onoratamente, e con fine degno del suo principio.'—*Storia d'Italia dal 1789 al 1814*, lib. iii. tom. i. p. 121.

Virgil says, that if the Trojans had not been blinded by the influence of adverse fate, they would have been persuaded by Laocoon to examine the interior of the wooden horse, in which case Troy would have been saved.

'Et si fata deum, si mens non læva fuisset,
Impulerat ferro Argolicas fedare latebras,
Trojaque nunc staret, Priamique arx alta maneres.'

Æn. ii. 54-6.

historian pauses to consider what would have been the course of events, if certain other alternatives had been adopted by those who had the power of acting differently; how, for example, certain evils might have been averted, if wise or honest, instead of foolish or dishonest counsels had been followed; or if certain probable consequences of a line of policy, which might, with ordinary sagacity and attention, have been anticipated, had not been overlooked. Thus, the military historian may show what would have happened, or what would have been prevented, if certain precautions had been taken by one general—if certain provisions for the future had been made—if certain stratagems had been detected—if certain probable movements of the enemy had been counteracted.

A reverse of fortune, or want of success, in an eminent person, is usually treated by favourable judges in the manner just adverted to. It is said that, if some misadventure which did occur had not occurred—if some incalculable obstacle had not presented itself—if some friend or officer, believed to be true or capable, had not proved false or incapable—in short, if some event, over which the person in question had no control, and which he had no reason to anticipate, had not happened, his success would have been certain. Most historians, in describing the military reverses of their own country, abound with this species of hypothetical apology.⁽¹⁹⁾

In commenting upon the acts of a tyrannical or unwise government, historians likewise often take occasion to show how, by following a different line of policy, it might have produced the happiness instead of the misery of its subjects—might have covered itself with glory instead of dishonour—might have advanced, instead of retarding, civilization.⁽²⁰⁾

(19) Thus, Livy attributes the capture of Rome by the Gauls to the banishment of Camillus, whose generalship, he thinks, would have saved the city: 'Expulso cive, quo manento, si quicquam humanorum certi est, capi Roma non poterat.'—v. 33.

(20) 'Quel bien les Espagnols ne pouvoient-ils pas faire aux Mexicains; ils avoient à leur donner une religion douce; ils leur apportèrent une superstition furieuse. Ils auroient pu rendre libres les esclaves; et ils

In truth, unless this mode of treating history is adopted, there is a danger of falling into a fatalist view of events; and of supposing that, because they are past, and therefore cannot *now* be altered, they could not, before they occurred, have been differently moulded by human volition. Many examples of this erroneous mode of viewing the past are to be found in some recent histories of the French revolution, where it is constantly assumed that a certain course of events, to which the name of '*the revolution*' is given, was inevitable; and that every act or policy, however mischievous, sanguinary, or unprincipled, which tended to promote this course of events, was, on that ground alone, necessary, and therefore justifiable. Such a mode of reasoning not only implies the worthlessness of all the safeguards of good government, but renders useless all history which is written for instruction, and is intended to guide the future by the light of the past.⁽²¹⁾ It is, however, not uncommon in historical writings, nor is it confined to any one historical school. If it is once conceded that a certain event was necessary, the means by which it was in fact brought about appear to be invested with the same necessarian character; if the effect was inevitable, its cause may be inferred to have been likewise inevitable.

rendirent esclaves les hommes libres. Ils pouvoient les éclairer sur l'abus des sacrifices humains; au lieu de cela, ils les exterminèrent. Je n'aurois jamais fini, si je voulois raconter tous les biens qu'ils ne firent pas, et tous les maux qu'ils firent.'—Montesquieu, *Esprit des Loix*, x. 4.

(21) 'J'avoue qu'il existe, entre les événements qui se succèdent, une liaison quelconque, sensible ou secrète, et qu'il y a un très grand profit à démêler les effets et les causes, toutes les fois qu'il est possible de les observer véritablement, et de s'assurer de leur réalité. . . . Je sais enfin qu'à force de raisonnements, soit ingénieux, soit frivoles, on parvient à expliquer, et en quelque sorte à prédire, tous les faits qui se sont accomplis, à trouver qu'ils étaient tous inmanquables, succès, revers, embarras, intrigues, révolutions, catastrophes; mais je ne vois point du tout ce qu'on a gagné à remplir ainsi nos annales de *nécessités* et d'*exigences*, ni à quelle instruction solide ce fatalisme universel pourrait jamais aboutir. *Il dénature et fausifie l'histoire*, qui, après tout, n'a pour matière que des choses mobiles, qui ne conçoit rien de vrai au-delà du réel, qui enfin ne connaît de causes que celles qui se présentent positivement et qui sont elles-mêmes des faits. Elle pourra bien par hasard en conjecturer d'autres, mais elle se gardera de confondre de telles hypothèses avec ses récits: elle ne divine pas, et même elle n'enseigne pas, elle raconte.'—Daunou, *ib.* tom. xx. p. 415. Compare Comte, *Cours de Phil. Pos.* tom. v. p. 266-7.

When we arrive at the subject of political conduct, we shall find that it consists always in an option between certain alternative courses, either devised by ourselves, or imposed upon us by others.⁽²²⁾ Now, in deciding with regard to the future, the consequences of each of these courses are uncertain, and only matter of conjecture. But in pursuing a hypothetical argument with respect to the probable effects of the adoption of an alternative different from that which was actually adopted, we are assisted by a knowledge of the consequences of the alternative which was chosen with respect to the past; out of several alternative courses, the effects of one are known and certain; the others are alone uncertain. With respect to the future, all the alternative courses are equally unknown and uncertain. Hypothetical reasonings of this sort respecting the past may, therefore, serve as a guide and an assistance for similar reasonings respecting the future—as having one element of certainty which the others are without. Discretion must, however, be used in the statement of such hypothetical questions; a contingency ought to be supposed which was within the limits of probability, and which might have occurred if certain persons had adopted a course which they may reasonably be conceived to have chosen. Thus, there is no improbability in the supposition that Alexander, if his life had not been cut off at so early an age, might, after the conquest of the East was completed, have turned his arms to the West. We know that he meditated an attack upon Carthage;⁽²³⁾ and it is quite within the range of probability that he might have invaded Italy, and attacked the Romans. Care must, however, be taken not to start such a hypothesis as was not within the range of probability, inasmuch as its discussion can lead to no instructive result. Thus, M. v. Raumer thinks that it would be absurd to speculate on what would have happened, if the crusades had not taken place in the twelfth and thirteenth centuries, or the Reformation in the six-

(22) Below, ch. xxiii.

(23) Curtius, x. 1. Arrian, vii. 1.

teenth—it being, as he thinks, inconceivable that those events should not have occurred at those periods of history.⁽²⁴⁾

Not only may the course of history and the conduct of the chief actors in public affairs receive illustration from hypotheses, but the same method is also often applicable to the investigation of political causes. Whenever any complex phenomenon of a political nature exists, and a certain result follows, people generally attribute to the whole, what is in truth only the consequence of a part. In such a case as this, we may suppose a certain portion of the complex phenomenon to be withdrawn, and we may consider whether, without that portion, the result would equally have occurred. In this manner the true causation may be tested, and the sequence of facts may be analysed into its elements. Thus, if a rise or fall of prices is alleged to be due to a combination of various circumstances, we may try to determine whether, if one of those circumstances had not occurred, the result would not equally have taken place. So, if trial by jury is recommended on the ground of the publicity and oral procedure which are its incidents, we may ask whether a mode of trial may not be supposed, which is accompanied with publicity and oral procedure, but which is without a jury.

The argument of Montesquieu respecting the economical state of Poland will serve to illustrate this mode of reasoning. Poland (he says) produces nothing but corn. The grandees own immense estates, and they press the cultivator to produce a greater quantity of corn, in order that they may sell it to the foreigner, and thus procure for themselves articles of luxury. Now if, he says, Poland were to abstain from all foreign commerce, the population would be more happy. The great proprietors would give the corn to the peasants; their large estates would be divided; and they would encourage the poor to produce articles of luxury in the country.⁽²⁵⁾ A similar hypothetical argument has often been applied to Ireland: but, in reasonings of this kind, it is necessary to take care that the

(24) *Geschichte der Hohenstaufen*, vol. vi. p. 340.

(25) *Esprit des Loix*, xx. 23.

portion of the complex case which is supposed to be absent, admits alone of practical separation from the rest. For example: in this case, it is essential to the validity of the argument that the corn would continue to be produced in undiminished quantities, if the foreign market was cut off.

It may be observed that the argument upon the moral government of the world, and the origin of evil, is generally conducted after this method. When the existence of any evil, such as disease or death, is represented as inconsistent with the Divine benevolence, the objection may be answered by supposing the absence of the evil, and by tracing the consequences of this hypothetical state of things. Thus (to take this example), it may be asked, what would be the result if men were exempt from disease and death? and whether a change in this part of human nature would not derange all the other conditions of human society?

In such of the physical sciences as admit of experiment, this hypothetical and uncertain mode of reasoning would be unnecessary; inasmuch as the effect of separating the questionable portion of the phenomenon could be tried in practice. In those physical sciences which do not admit of experiment, similar hypotheses may be made. Thus, we may consider what would be the effect upon the earth and its atmosphere, if its velocity of rotation was increased or diminished; or what would be the change of climate if the relative positions and proportions of land and sea were different from their present state.

§ 4 Such is the method to be pursued by the historian in investigating the consequences of political events or phenomena. The method to be pursued by the statesman in solving the same problem is similar, though his object is practical and special, and not scientific and general. Sometimes, indeed, the statesman may be assisted by the works of professed historians: this is particularly the case with organic political changes, constitutional questions, negotiations, wars, and the construction of treaties of a certain antiquity. Thus, the question of the Spanish marriage of the Due d'Aumale raised a question as to the construction of the treaty of Utrecht, and other questions of international

law, for the solution of which much historical research, and an extensive knowledge of the relations of the leading European states during the last century, were necessary. Again, in taking a review of the progress of prices of corn, and other articles of large consumption, the practical politician would derive much assistance from such works as Mr. Tooke's *History of Prices*. Without a knowledge of the recent political history of his own country, no person would be competent to discuss practical measures for altering its form of government. Subjects of this kind, however, belong rather to the extraordinary occasions of practical politics. The ordinary current business of government is confined to recent times, and to matters of too limited an extent to attract the notice of the historian. In these cases, the circumstances must be ascertained, whether it be for a legislative, administrative, or judicial purpose, in the manner indicated above;⁽²⁶⁾ and when this process has been completed, the consequences of the event, law, measure, treaty, or other fact under consideration, must be determined by the logical methods already explained. Whether the conclusion be intended for a scientific and speculative, or a practical and active purpose, the method of investigation is the same. The antecedent whose effects are proposed for inquiry cannot, as has been already explained in reference to history, be abstracted from all other influences. In practice, its operation has generally been combined with that of other circumstances, which, taken together, form the compound cause to which the effects must be referred.

§ 5 A political fact, of which the consequences are investigated for a practical purpose, may be something which the government cannot change or influence, though it may adopt certain measures having reference to its operation. Thus, the inquiry may relate to the effects of a scarcity of food, of a failure of produce, of a disturbance of trade, of a war between foreign powers, or of a declaration of war by a foreign government; in these cases, the event is beyond the control of the

(26) Ch. v. § 9.

government of the country in which the inquiry is instituted, and the effects are investigated merely with a view to the adoption of a measure by which they may be modified or counteracted. The subject of inquiry may, however, be a law, or administrative act or treaty, of the government itself; and in this case it becomes important to estimate the effects of the law or other act with respect to its *intent* and *policy*; inasmuch as it may be rescinded or altered, if these effects do not correspond with the expectations formed of its operation. With this view, the effects of a law or other similar act of a government may be divided into the following four classes:—

1. Its primary and designed effects; those effects which its authors contemplated and desired, and which were the main object of the legislature in its enactment, or of the government in its adoption.

2. Effects designed by its authors, but incidental and secondary; effects which they contemplated and desired, but which were not their principal object in devising the measure, though they were an additional motive to its adoption.

3. Effects contemplated, but not desired, by the authors of the law.

4. Incidental and undesigned effects; effects neither contemplated, nor desired, by the authors of the measure.

We will now offer some remarks upon each of these classes; and we may state, at the outset, that most of our remarks upon 'laws' will apply not only to laws, strictly so called, but also to any deliberate act of a government which is reduced into writing, and thus acquires a permanent form, such as a treaty, or other international compact.

§ 6 Before we can distinguish which are the designed effects of a law, we must ascertain what is meant by the *intent* or *purpose* of a law.

By the *intent* of a law is signified the practical operation and influence which the legislature desired that the law, when put in force, should produce. In a general and remote sense, indeed, the purpose or design of every law is to promote the

welfare of the community : ' *Finis et scopus* (says Lord Bacon) *quem leges intueri, atque ad quem jussiones et sanctiones suas dirigere debent, non alius est, quam ut cives feliciter degant.*'⁽²⁷⁾ Each law, however, has a more direct and special purpose, to which the intention of the legislature more immediately referred, such as the imposition of a certain tax, the repression of a certain class of acts, the creation of a certain right, &c.

The *intent* or *purpose* of a law is wholly different from the *motives* or *ground* of the law. The former is its practical end or effect; the latter, the pre-existing circumstances which suggested and caused its enactment.⁽²⁸⁾ For example, the existence of a famine in a country may tend to the enactment of a poor-law. In this case, the famine is the motive or ground of the law; and the relief of the poor its intent or purpose. The one is its positive cause, the latter is its desired effect. As a law is, in strictness, nothing but a general command emanating from the sovereign power in a state, it does not necessarily imply any declaration of the intention of the legislature in its enactment. Sometimes, indeed, the purpose of the law is declared authentically in its preamble;⁽²⁹⁾ and even its title may furnish a clue to the intentions of the legislature. Acts of authentic interpretation, rescripts of the law-making authority, and subsequent declaratory statutes,⁽³⁰⁾ may likewise serve the same purpose. But where this authentic explanation is either wholly wanting, or is brief, obscure, or imperfect, recourse must

(27) *De Augm. Sci.* l. viii. aph. 5.

(28) Suarez (*De Legibus*, iii. 20, § 2, p. 162, ed. Lond.) says:— ' *Sine dubio in animo legislatoris hæc duo distincta sunt, scilicet voluntas seu intentio ejus, secundum quam vult præcipere, et ratio, ob quam movetur.*' Compare vi. 1, § 19, 20, p. 359.

The *ratio legis* and the *mens legis* are distinguished by Grotius (*J. B. et P.* ii. 16, § 8), with Barbeyrac's notes; and by Puffendorf, v. 12, § 10.

Respecting the *reason* of a law or treaty, see Vattel, b. ii. § 287-90, 298.

The *purpose* of a law, and its *motive*, have often been confounded under the general term *ratio legis*. See Savigny, *System des heut. R. Rechts*, vol. i. p. 216-21.

(29) See Dwarria on *Statutes*, p. 762; ed. 1830.

(30) According to the law of England, declaratory statutes are generally statutes declaratory of the common law (see Dwarria, p. 637); but a statute may be passed to declare the meaning of a prior statute.

be had to secondary and indirect means for determining the intention of the legislature. Thus, inferences may be drawn as to the intention of the legislature from the reports of ministers, of parliamentary committees, of commissions, and other official documents, in which the law was suggested, and its provisions proposed and discussed. The *Conferences du Code Civil* contain a record of the views of the framers of the French civil code upon its several enactments; and the numerous reports of parliamentary committees and special commissions in England throw much light upon the various legislative acts which have resulted from their labours. Where the legislation is by a popular assembly, its debates, so far as they are preserved, constitute an authentic record of the views of the authors and promoters of a measure.

Sometimes the frame and contents of the law itself furnish a key to the purpose with which it was enacted. Thus, it may be subsidiary to some measure to which reference is expressly made: it may, for example, be enacted for the purpose of giving effect to the stipulations of some treaty with a foreign power, or an agreement with private parties, which treaty or agreement may be recited; or it may be intended to develop and extend, or to limit and curtail, or otherwise to modify, the provisions of some previous law.

Generally it happens that the intent of the legislature is indicated in the provisions of the law itself, and its scope can be collected from the character of its enactments. Thus, a law offering a premium for a certain class of acts, or a law prohibiting a certain other class of acts, under penalties of different degrees of severity, is clearly intended to encourage or repress the class of acts in question. The scope of the lawgiver can, however, be only collected fairly from a general and comprehensive review of the entire law, and a comparison of its several enactments. Erroneous inferences as to the purpose of the legislator are likely to be drawn from a hasty or partial inspection of a particular provision, not taken in combination with the rest of the law. As, in grammatical or philological interpreta-

tion, the sense of an isolated expression must not be determined without reference to the context, so, in legal interpretation, the sense of a single clause of a law must not be determined without reference to the other provisions. Such a method of arriving at the intent of a law is justly censured as unlaywer-like in the *Digest* — ‘Incivile est, nisi totâ lege perspectâ, unâ aliquâ particulâ ejus propositâ, judicare vel respondere.’⁽³¹⁾

Institutional writers lay it down that, in the interpretation of a statute, three things are to be borne in mind: 1, the old law; 2, the mischief; 3, the remedy.⁽³²⁾ By comparing these three elements, a probable conjecture can be made as to the purpose of the legislature in passing the new law. Knowing the old law and the mischief, we perceive in what the old law failed, and what was the precise evil to be rectified; then, looking to the character of the remedy, we can form a well-grounded judgment of the means which the legislature desired to employ for the attainment of this end.

Although it may, upon a superficial view of the subject, seem an easy task to determine the intention of the legislature with respect to any given law, yet the solution of this problem is often attended with great difficulties, and is subject to much uncertainty. This will soon be made apparent, if we consider the process by which laws are, in fact, prepared, and invested with the legal sanction.

Where the legislation is by an absolute monarch, or despotic prince—as under the Roman empire, the Spanish and French monarchy of the seventeenth and eighteenth centuries, the French empire of Napoleon, and in the Oriental kingdoms—a draft of a law is prepared by some minister, or under his direction: it may afterwards be discussed in a council of state, or other consultative body; and when it has been put in a form fitted for pro-

(31) i. 3, 24. Compare Bacon *de Augm.* viii. aph. 26; vol. ix. p. 90: Vattel, *Law of Nations*, b. 2, § 285: Dwarria, *ib.* p. 698.

(32) Stephens' *Commentaries on the Law of England*, vol. i. p. 72. On the construction of statutes, see Lord Kames, *Principles of Equity*, b. i. part 1, ch. 5; b. ii. ch. 7.

mulgation, it receives the sanction of the monarch. If the work be an extensive consolidation of existing law, and the formation of a code, there may be an examination of its several parts by a legislative commission—as in the case of Justinian's codes and the French codes—before the promulgation takes place. It cannot, however, be supposed that the legislator himself is really acquainted with the details of the law, or the contents of his code; or that he can do more than add a legal authority to the provisions devised by others.

The measures submitted to a legislative assembly are, in like manner, prepared by skilled or professional draftsmen; and by persons who frame a plan and arrange its details. This is a work which can only be done effectually by one or a few minds. Wherever invention, and the formation of a coherent scheme, are requisite, a large body is powerless.⁽³³⁾ A draft or plan, however, when once formed, can be advantageously judged and discussed by a deliberative body; and such is the course adopted. Its general scope and special provisions are examined in the assembly; various amendments—by way of omission, insertion, or alteration—are made; many of which are the result of a compromise between conflicting views; and the result is a law, which is not properly the product of any one mind, and which no person, perhaps, has ever conceived as a whole. Under these circumstances, the intention of the legislature, considered in its corporate capacity, is a mere fiction; the author of each part intended something, but the entire legislature could only have given its assent to the general purpose and scope of the law.

The opinions expressed in parliamentary speeches sometimes, on account of their conflicting nature, rather increase than diminish the difficulty of determining the intention of the legislature. Hence, in the judicial interpretation of a statute, the courts of this country look merely to the law itself, and collect

(33) 'There be three parts of business: the preparation, the debate or examination, and the perfection; whereof, if you look for despatch, let the middle only be the work of many, and the first and last the work of few.'—Lord Bacon, *Essay* xiv.

the intentions of the legislature from its language, not from such extraneous, obscure, ambiguous, and uncertain indications as those afforded by the declarations of individual members of a large deliberative body.

Nevertheless, as the proposer of a law, in a popular assembly, is generally the author, if not of the actual draft, at least of the plan and frame of the measure, his views, if recorded, are of peculiar authority in disclosing the purpose of the law. The practice of calling laws after the name of their proposer—which was the official usage at Rome, and is customary in certain cases in our own country—is a proof of the importance justly attached to the proposer of a law as its author. It may not be consistent with the rules of our courts, to allow a reference to the views of the proposer of a law in judicial discussion: for example, in construing the Grenville Act, it might not be proper to take notice of anything stated in parliament by Mr. Grenville at the time of its introduction; but for purposes of historical or legislative discussion, a less severe rule is followed. In proportion, indeed, as a law is skilfully and clearly framed, its scope and purpose will appear from the character, order, and mutual connexion of its provisions. Extraneous and secondary *indicia* will be less necessary for arriving at the design of the legislator, if his workmanship be good, and his work be a finished performance.

In one important class of public measures, viz. those relating to finance, the measure is generally preceded by an announcement of the expectations formed by its proposer as to its probable consequences. If it be a measure for the imposition of a tax, a calculation is made of the sum which it will annually yield. If it be a measure necessitating a certain outlay of public money, an estimate of the probable amount of expenditure may be presented. Other economical measures may likewise be accompanied by an authentic statement of the views of their authors as to their probable effects, expressed in an arithmetical form, and therefore leaving no doubt as to the design with which they are proposed.

In endeavouring to ascertain the intent of ancient laws, we

often find that the nature of the evil to be remedied, and the circumstances out of which they grew, have been imperfectly preserved, and are now unknown in great measure, or forgotten, so that the legislator's purpose is uncertain, particularly if the law be brief and obscure in its language. Many of our older statutes, commented on by Daines Barrington, afford examples of this uncertainty. It is even, in some degree, the case with the Poor-law Act of Queen Elizabeth. The views of the legislature as to the evils which this law was to remedy, and the extent to which it was to be carried into effect, are doubtful. It is laid down in the *Digest*, that the reasons or motives of ancient enactments cannot always be ascertained; but this uncertainty, it is added, ought not to prevent the enforcement of the law.⁽³⁴⁾ On the other hand, it is to be borne in mind that where the *ratio legis*—the motive for the enactment, the mischief to be remedied—is uncertain, the scope or purpose of the law is likewise often obscure. Hence the sound maxim, 'Contemporanea expositio est fortissima in lege:' the judges and lawyers who lived at the time when a law was made, are best able to divine the true intention of the legislature by which it was enacted.⁽³⁵⁾ Similar remarks apply to ancient treaties, and to their interpretation.

Even with respect to times comparatively recent, and a state of society not very unlike our own, doubts as to the intent of a law often exist. But the uncertainty is much greater when the scene is shifted to a remote age, and to a state of society wholly unlike anything which exists, and imperfectly recorded.

Such are the prohibitions in the Mosaic law, of sowing a field with mixed seed:⁽³⁶⁾ of ploughing with an ox and an ass together:⁽³⁷⁾ of wearing a garment mixed of linen and woollen:⁽³⁸⁾

(34) *Dig.* i. 3, l. 20, 21. Compare Savigny, *Syst. des heut. R. Rechts*, vol. i. p. 322.

(35) Dwarria, p. 693.

(36) *Lev.* xix. 19; *Deut.* xxii. 9. See Michaelis, *Commentaries on the Laws of Moses*, arts. 218, 219, vol. iii. p. 340; Engl. transl.

(37) *Deut.* xxii. 10; Michaelis, art. 220.

(38) *Lev.* xix. 19; *Deut.* xxii. 19; Michaelis, *ibid.*

of cutting the hair and beard.⁽³⁹⁾ In these cases, the nature of the evil to be prevented, and the scope of the prohibition, are obscure, inasmuch as there is only the naked enactment. In the following prohibition, the purpose of the enactment is annexed, and thus serves as an authentic interpretation of the law: 'When thou buildest a new house, then thou shalt make a battlement [*i. e.* parapet] for thy roof; *that thou bring not blood upon thine house, if any man fall from thence.*'⁽⁴⁰⁾ Various enactments in the Twelve Tables, and in the mediæval codes, which have exercised the ingenuity of historians of legislation and antiquaries, might be cited as proofs of the difficulty of discovering the scope of ancient laws.

The interpretation of treaties and other international compacts is governed by principles very similar to those followed in the interpretation of laws; and the design of the contracting parties is to be determined in the same manner as the design of the legislator. Sometimes the object of the treaty is recited in its introduction, or appears partially from its title; sometimes it is accompanied by authentic declarations of the objects of the contracting parties. The diplomatic correspondence and records of oral negotiations of the parties likewise serve to elucidate the meaning of the conditions agreed upon: and as treaties are in general short, and the parties to them not numerous, the effect of the entire instrument is, for the most part, more carefully considered than in the case of detailed laws, made by a deliberative body consisting of many members, and hence the scope of its several provisions is more apparent. Old treaties, however, like old laws, are often open to doubt in their construction, and differences of opinion arise as to the purpose with which they were made, and as to the circumstances to which they were intended to apply.

It may happen, when a government is conducted in an unscrupulous spirit, that the avowed purpose of a law or treaty is

(39) *Lev.* xix. 28. See Michaelis, art. 225.

(40) *Deut.* xxii. 8. The allusion is to the habit, in hot countries, of sleeping at night on the flat roof of the house. Compare the story of Elpenor, in the *Odyssey*, x. 552.

not the real one; and that the legislator or negotiator puts forward some pretext in order to mislead and satisfy the public, while his real object is concealed. Persons who propose a measure to a legislative assembly are not, indeed, bound to state *all* the objects which they have in view. In the transaction of business, a selection of the main objects is in general alone practicable. But they are bound to state the main objects, and to state those objects correctly, not substituting a false for a true purpose.

Measures procured upon false pretences, by a misrepresentation of their real purpose, resemble stratagems in war, by which a general appears to mean one thing, when in fact he means another, and thus diverts the attention and lulls the suspicion of the enemy. Like any other fraudulent contrivance, they consist in covering a real under a simulated purpose; and in accomplishing an object which cannot be avowed, by its concealment under an object which can be avowed. Thus, Augustus gained his object of making himself master of the Roman state, without the assumption of any peculiar title or mark of supreme power, and without interfering with the accustomed succession of consuls, prætors, tribunes, and other high officers. In this manner, he effected a substantial change in the Roman constitution without altering its form, and exercised the powers of an absolute monarch without exhibiting any of the insignia of dominion. So, likewise, Napoleon adopted many contrivances for keeping up the forms and associations of the republican and revolutionary period, while he in fact transferred the real sovereignty into his own hands.

Unquestionably there has been much insincerity and intentional deceit in the conduct of political affairs. Many intentions have been professed by rulers which were not really entertained; many intentions have been really entertained which were either denied, or studiously concealed. At no distant period, the use of fraud and concealment with respect to the acts and purposes of the government was deliberately recommended, both for domestic policy⁽⁴¹⁾ and in negotiations with

(41) See Machiavel's *Principe*, c. 18.

foreign powers. Insincerity in diplomatic relations has, in particular, until recent times, been thought a very venial offence.⁽⁴²⁾ Owing to these causes, there is a prevailing disposition to distrust the professions, and to disbelieve the assurances, of statesmen; to discover in political measures a more profound design and longer forecast than really exist; and to impute measures having no other object than the apparent and avowed one, to a deeply-contrived, and what is called a *Machiavelian* policy.

Hence, for example, it has been believed upon the continent, that the abolition of slavery in the British colonies had not for its object the alleviation of the lot of the negroes, but was intended to encourage discontent and revolt among the slaves in the United States, and thus to weaken their power. In like manner, it is thought in foreign countries that the maintenance of the squadron on the coast of Africa, though ostensibly employed for the repression of the slave trade, is in fact intended to confirm and extend the maritime power of England. Again, the restoration of the power of the pope at the treaty of Vienna, by the influence of England, was supposed to have originated in the fear of the English government, that a diminution in the strictness of Catholic discipline in Spain and Italy would diminish the sale of her salt fish and injure her fisheries.

In assigning the motives of political measures upon suspicion, and without an exact knowledge of the facts, we are constantly liable to fall into this error. Hence, it is frequently committed by the inhabitants of one country in interpreting the public acts of another. Ignorance of facts and national prejudice, when combined, produce the most absurd figments: the one supplies an inducement for malignant falsehood—the other supplies the credulity necessary for its reception.

§ 7 Assuming, then, that the intention of the legislature in enacting the law is ascertained and known, we have next to

(42) Deceit, according to the remark of Gibbon, is the natural antagonist of violence; and, hence, a weak community may be justified in resorting to such stratagems in order to resist unreasonable demands, as that employed by Themistocles in the case of the walls of Athens.

consider whether the actual effects of the law correspond with that intention.

Now laws, regarded in this point of view, are said to be either *operative* or *inoperative*.

An operative law is a law which produces the effects which the legislature intended it to produce. For example: if, under a law imposing a tax, the tax is assessed and collected—if, under a law prohibiting theft, thieves are prosecuted and punished—if, under laws providing for the relief of the sick, the repair of roads, or the maintenance of lighthouses, the sick are relieved, roads are repaired, and lighthouses are maintained,—then these laws would be said to be operative.

On the other hand, an inoperative law is a law which does not produce the effects which the legislature intended it to produce. A law may be inoperative from being wholly dormant. The legislature may have omitted to take the proper means for carrying it into effect; for instance, it may have provided no executive machinery, or no fund for defraying the machinery which it would create; or, lastly, the measure, having once been in force, may have fallen into desuetude. A law may likewise be inoperative, where it produces certain effects, but not the effects which were intended by the legislature. For example, penal laws against a certain religious sect may depress, demoralize, and impoverish that sect (effects not desired by the legislature), but may fail in accomplishing the conversion of the sect to the established creed—the effect intended by the legislature. In like manner, fiscal measures for the encouragement of native industry may (contrary to the intention of the legislature) disturb trade and production; but they may fail in giving that impulse to native industry which the legislature desired and anticipated. So a financial measure may fail in realizing the expectations on which it was founded. A new tax may be less productive—a source of expenditure may prove greater, than the amount estimated. Again, a war may either fail altogether in accomplishing the purpose with which it was undertaken, or may accomplish that purpose only up to a certain point. There is

always a danger of false calculation as to the success in any attempt or undertaking—in the speculations of merchants and traders not less than in the plans of politicians. By want of success is meant, that the effect does not come up to the intention, but falls short of it. Treaties and other covenants between independent nations may, like laws, be said to be operative or inoperative, according to the effects which they produce, as compared with the intentions of the contracting parties. Those intentions, however, may be different, and even inconsistent with each other.

In comparing the actual results of a law, or treaty, with the expectations formed of its probable operation, we should, after having determined its scope and design from its own contents, according to the principles above stated, refer in the first instance to the contemporaneous declarations of its authors with respect to their views and intentions on the subject. Next to them, we should compare the anticipations of men of sense and moderation with respect to its direct and primary effects, and not the sanguine anticipations of enthusiasts. In the discussion of every extensive and important measure, persons are to be found who expect it to prove a panacea for large classes of evils, and who look to results which a chastened and sober judgment would not approve. Men of this sort expect their favourite measure not only to produce its primary effects in a very complete and comprehensive manner, but also many incidental advantages, not directly aimed at in the scheme. In referring to the declarations made by the authors and promoters of a measure, with respect to their views of its probable effect, attention must be paid to their *date*—in order to be conclusive, they ought to be anterior to the passing of the law; for the rapid succession of events and change of circumstances often efface or obscure the remembrance of the precise object with which a law was framed; and, moreover, the failure of any measure, either wholly or in part, affords an inducement for disavowing the predictions which had been made of its success, or for reducing them to a scale tolerably commensurate with the event.

Measures giving effect to an extensive principle are generally accompanied with subordinate provisions, intended to limit and control their operation. In these cases, the legislator himself provides certain securities against the excesses of his own principle; he applies correctives and counteractions to its influence, if carried beyond certain limits.⁽⁴³⁾ In order, therefore, to determine how far a law of this sort is operative or inoperative, we must consider how far the legislator intended his principle to go, and whether the operation which it has had comes up to the mark which he fixed beforehand, or falls short of it. If a law fulfils the intentions of the legislature by which it was enacted, it cannot justly be called inoperative, though its effects may have been less extensive than some persons may desire. This remark applies particularly to laws, in the execution of which a discretion, within certain limits, is left to the subordinate authorities.

§ 8 We proceed now to the second class of effects—those incidental, and secondary in importance, but nevertheless contemplated and desired by the legislature.

It often happens that a government, having taken the steps necessary for the accomplishment of a given object, may be able incidentally, and with little further exertion or sacrifice, to accomplish a by-object, admitted to be useful and desirable. For example: in a military or naval expedition made for the purpose of conquest, or in a pacific visit of an ambassador for the purpose of negotiation, men of science may be taken, in order to make observations in their own departments of knowledge. When Alexander had, by his conquests, opened Central Asia to the Greeks, he availed himself of this opportunity to furnish Aristotle with the means of prosecuting his researches into natural history.⁽⁴⁴⁾ Geographical knowledge has been promoted by all territorial conquests of civilized nations—by the

(43) Compare the remarks in the author's *Essay on Authority in Matters of Opinion*, c. 7, *ad fin.*

(44) See Sprengel, *Geschichte der Arzneikunde*, vol. i. p. 494-7. Compare the remark of Cuvier: 'C'est que l'histoire naturelle en effet est du

conquests of Alexander in Asia, of the Romans in Europe and Africa,⁽⁴⁵⁾ of the Spaniards in America, of the English in Hindostan. So ships employed on a foreign station for the purpose of protecting trade may occupy their spare time in making charts, in surveying the line of coast, and taking astronomical observations. Regiments appointed to defend a frontier may assist in constructing or repairing fortifications. Similarly, in private life, a person who makes a journey, or otherwise incurs an expense, for some paramount object, may be able to accomplish incidentally some minor object, for which *alone* he would not have made the journey or incurred the expense. A man who goes to a distant country on account of health, or of some important pecuniary interest, would not fail to see the remarkable works of art and nature in that country.

It often happens that a law (especially if it be of a complex nature) is recommended as accomplishing certain objects, accessory to its main object, but not strictly connected with it. For example, taxes are often recommended as subserving some *moral* end. The primary end of a tax is to raise a revenue to the government; but, in addition to this, we are told, perhaps, that a duty on spirits or beer discourages drunkenness, or that a certain arrangement of duties encourages the consumption of a less, instead of a more pernicious article—of beer, for instance, instead of spirits. More often, duties are recommended as encouraging certain sorts of industry or trade, as native or colonial rather than foreign. So the main object of a poor-law is to relieve destitution; but it is often recommended as accomplishing various collateral purposes, such as stimulating employment, regulating the number of dwellings, and repressing population. The main object of turnpike-gates is to collect tolls; but it is stated, as an incidental advantage of the system, that they facilitate the detection of horse and cattle-stealers who pass along the road.

Another example of incidental effects of an institution con-

nombre des sciences où le génie seroit impuissant, s'il n'étoit secondé par le pouvoir; mais les efforts du pouvoir y seroient vains à leur tour si le génie ne savoit en co-ordonner les résultats.'—*Hist. des Sciences Naturelles*, tom. ii. p. 349.

(45) See Polyb. iii. 59.

templated as advantageous, but not a part of its main object, is afforded by the system of local self-government established in this country. The parochial, borough, county, and other local institutions are intended, primarily and directly, to accomplish certain objects of public administration, such as police, relief of the poor, repair of roads, maintenance of churches, sewerage, lighting and paving; but it is always regarded as an important incidental consequence of these institutions, and in their modification or extension is recognised as one of their leading recommendations, that in their operation they encourage habits of independence and business, and give to the inhabitants of each locality an interest in attending to public affairs. This is an incidental benefit, extraneous to the appropriate end of the institution, but it is nevertheless within the distinct contemplation of the legislature, which perpetuates, amends, and enlarges the system. The same remark applies in some measure to trial by jury—though, in the case of this ancient institution, it cannot be said that the incidental advantage was contemplated by its original authors. Trial by jury is a mode of judicial trial, the main object of which is the decision of criminal prosecutions and of civil controversies; but, besides its efficacy in determining these questions, it is also often recommended as producing the incidental effect of training the people in the administration of the law, and giving them a species of political education.

Where an accessory and subordinate object can be accomplished without any disturbance of the means applicable to the primary end, then, assuming such subordinate object to be good, there can be no reason why an effort should not be made for its attainment; but if the attainment of the subordinate object is likely to interfere with the primary object, then it ought not to be attempted. In general, it may be laid down as a wise rule, that the objects of a law ought to be as simple, and its operation as direct, as possible. The Horatian precept—*‘Sit quodvis simplex duntaxat et unum’*—is as applicable to the works of the statesman and legislator as to those of the poet. If an

attempt is made, by a single enactment, to accomplish indirectly various objects, running in parallel lines to the main object, there is a danger, not only that the collateral objects may not be attained, but that the main object itself may be more or less defeated. Attention is distracted, and the simple action of the machinery is perplexed, by a multiplicity of applications. For the most part, a law which, like Goldsmith's chest of drawers, is 'contrived a double debt to pay,' is a bad law.

As we shall see presently, the authors of a law ought to take care that its incidental effects, so far as they can be foreseen, are not mischievous. Assuming that the primary and intended effect of a law is good, it ought further to satisfy this condition—that its incidental effects, so far as they can be calculated beforehand, are innocent; that they are *not bad*; and if they comply with this negative condition, the legislator need not in general trouble himself further. Legislation is so difficult a work, that the utmost simplification of each legislative problem is desirable. For example, if a judicial system produces the effect of good decisions, with little delay or cost, it need not aim at the political education of the people. The attempt to attain moral ends, by the bye, in legislative acts and mercantile transactions—to steal a little good out of a measure destined to another purpose, is for the most part unsuccessful, and, by the circuitous and tortuous nature of its means, often does more harm than is compensated by the goodness of its end. Hence, in estimating the effects of a law, our attention should be steadily fixed on its primary purpose; and its worth ought not to depend, to any great extent, on consequences which are not a part of its direct and legitimate policy.

§ 9 Having considered the incidental effects of a law contemplated—and, as being beneficial, also desired—by the legislature, we proceed next to the other incidental effects, likewise contemplated by the legislature, but, as being mischievous, *not* desired by it.

Sometimes effects of this sort are counteracted, wholly or partially, by subsidiary provisions annexed to the main law. When extensive rights, such as the right of property, or the right

of parental control, are conferred by the legislature, they are accompanied with conditions and limitations intended to prevent their abuse. Thus, the right of property is guarded from a large class of incidental evils by the maxim, '*Sic utere tuo, ut alienum non lædas.*' At other times, the incidental bad consequences of a law are treated as inevitable, but, although anticipated, are held to be outweighed by its advantages. The incidental evils are taken as a necessary alloy, as a detraction from the beneficial influence of the law, due to the imperfection of everything human. As goods are never unmixed, a portion of evil must be expected to arise from every law, and must be endured as necessary. If, upon striking a balance of good and evil, the former largely preponderates, the law is on the whole beneficial—for instance, if, its effects being taken at 100, there are eighty good, and twenty bad. It is impossible to make a law so perfect that its incidental effects are never detrimental—that its use is wholly free from abuse. The best poor-law produces idleness, improvidence, and imposture; the most just and successful war destroys life, and causes large expenditure. So the system of insurance, though on the whole beneficial, is constantly attended by certain liabilities to abuse. The insurance of lives sometimes produces murder; the insurance of buildings and farm-stock sometimes produces incendiary fires; the insurance of ships sometimes produces intentional shipwreck.

On the other hand, the evil effects foreseen to be incidental to any measure under consideration may be such as to outweigh its designed advantage; for instance, military success may be purchaseable at too great a loss of life, or a useful public work may require too large an outlay of money.

§ 10 We have now seen that the anticipated consequences of a law may be distributed into three classes: those which were desired by the legislature, either primary or incidental, and those not desired, but regarded as inevitable. It remains for us, lastly, to consider those effects of a law which were wholly unforeseen; which the legislature did not contemplate or advert to before its enactment.

When a law has been for some time in operation, it will be

found, upon a comparison of its actual with its anticipated effects, that partly from the infirmity of human powers of prediction, and the incalculable changes in human affairs—partly, perhaps, too, from want of attention, or of due investigation on the part of the legislature, many of its consequences were unforeseen. The consequences of all great political changes are, indeed, so numerous, so complex, and so remote, as to defy, in many cases, the calculation of the most experienced and sagacious statesman, or the most accomplished historian. Who, for example, could, at the time when those events occurred, have anticipated all the consequences of the English revolution of 1688, of the American independence, or of the Convocation of the States-General in 1789? Even the direct and immediate consequences of such great events cannot easily be perceived beforehand: their incidental and remote effects no human ingenuity can predict. The same remark applies to important mechanical inventions—such as the mariner's compass, gunpowder, printing, and the steam-engine,⁽⁴⁶⁾ the influence of which upon human affairs, upon manners, customs, industry, trade, war, laws, and government, no sagacity could, at their first introduction, have divined. Even measures of limited extent, however, not unfrequently produce effects unforeseen by their promoters, if a change occurs in the medium upon which they operate. Thus, in 1843, the occupiers of small tenements in Ireland were exempted from the poor-rate, which was imposed upon the owner. This change was made for the purpose of relieving the poorest class of occupiers from a burden which they were ill able to bear, and of facilitat-

(46) 'Rursus, vim et virtutem et consequentias rerum inventarum notare juvat; quæ non in aliis manifestius occurrunt, quam in illis tribus, quæ antiquis incognite, et quarum primordia, licet recentia, obscura et ingloria sunt: artis nimirum imprimendi, pulveris tormentarii, et ædis nauticæ. Hæc enim tria rerum faciem et statum in orbe terrarum mutaverunt: primum in re litterariâ, secundum in re bellicâ, tertium in navigationibus. Unde innumera rerum mutationes secutæ sunt; ut non imperium aliquod, non secta, non stella majorem efficaciam et quasi influxum super res humanas exercuisse videatur, quam ista mechanica exercuerunt.' Bacon, *Nov. Org.* i. aph. 129.

Beckmann's interesting work upon inventions contains many remarks upon the effects of their works, which the inventors themselves could never have contemplated.

ing the collection of rates, by throwing the burden upon a more solvent party. Nevertheless, in the famine years of 1845-9, this law exercised a detrimental influence upon the class of occupiers whom it was intended to relieve, inasmuch as it afforded an inducement to eject those tenants who paid no rent, and whose rates fell upon the landlord.

When the authors of a measure which sets numerous political elements in motion confine their attention to a limited object, its unforeseen effects are sometimes more important than those which it was intended or expected to produce. Thus the purpose of the crusades was to rescue the Holy Land from the possession of an unchristian people: this purpose was not accomplished; but the activity, the commercial intercourse, the exchange of ideas, and other similar consequences which flowed from them, exercised an important influence upon the European nations.⁽⁴⁷⁾

Sometimes what ought to be the object of a law is only its incidental effect; and in this case the law is effective, not because it does what was intended, but because it also does what was not contemplated, or, at the most, was contemplated without being desired. Thus, in ignorant times, punishments were avowedly inflicted on the principle of vengeance; the criminal was forced to make atonement to the injured party, and to the community, for the wrong which he had done. Now vengeance, as vengeance, has no tendency to prevent future crimes; but whenever punishment on the vindictive principle was pretty regularly inflicted, people saw that if they committed the like offence, vengeance

(47) 'The crusades enlarged the horizon, increased the activity, and awakened the enthusiasm of the western nations. They placed before the mind a greater object than was afforded by domestic concerns. The crusaders became acquainted with other countries and nations, other natural products, other political institutions, other scientific views.'—Raumer, *Hohenstaufen*, vol. vi. p. 341.

Speaking of a Bramin named Ragoboyah, Sir J. Mackintosh says, (*Life*, vol. i. p. 393.) 'He told me that their pilgrimages [those of the Hindoos] produced travelling, diffused knowledge, promoted commerce, and removed local and national prejudices. I asked him whether these were the objects of their lawgivers in having enjoined pilgrimages? His answer was pretty nearly in the following words: 'No; these notions of utility never occurred to our lawgivers. Their views were exclusively religious. But we can now observe the effects of these institutions.'

would likewise be taken of them; and so they abstained for fear of the ill. In this manner, vindictive punishment, though not intended to be preventive, has had, in fact, a preventive operation.

It often happens that, owing to the changes which a lapse of years produces, the evils arising from the unforeseen and accidental effects of a law are of sufficient magnitude to outweigh the benefits arising from its intended effects.⁽⁴⁸⁾ This is in general what is meant when it is said, that a law has become antiquated, and that it is no longer suited to the existing state of things. Manners, mechanical arts, and opinions change; and if laws remain unchanged, they become unsuited to the medium in which they operate, and produce effects which their authors did not and could not contemplate.

We shall attempt, in the next chapter, to describe the process by which laws are framed, so as to afford a rule for all the different cases of the class to which their provisions are intended to be applicable. But, with whatever care and skill this process may be conducted, it is always found, in the practical administration of a new law, that certain cases arise, which either were not foreseen at all, or are of such a nature that the provisions of the law apply to them imperfectly, inconveniently, and in an oblique and left-handed manner.⁽⁴⁹⁾ When cases of this kind occur, the executive functionaries have only a choice of evils: sometimes they mould the letter of the law according to its spirit, and decide as the legislator himself would have decided if he had been in their place⁽⁵⁰⁾—at other times, acting upon the maxim,

(48) See Montesquieu (*Esprit des Loix*, xxix. 4), upon laws producing an effect contrary to that intended.

(49) 'Neque leges neque senatus-consulta ita scribi possunt, ut omnes casus, qui quandoque inciderint, comprehendantur, sed sufficit ea, quæ plerumque accidunt, contineri.'—*Dig.* i. 3, n. 10. It is a legal maxim, 'Rerum progressus ostendunt multa quæ initio prævideri non possunt.'—2 *Inst.* 26; Dwaris, *ib.* p. 803.

^a Angustia prudentiæ humanæ casus omnes, quos tempus reperit, non potest capere. Non raro itaque se ostendunt casus omisi et novi.—Bacon, *De Augm. Scient.* lib. viii. aph. 10. On this subject, see aph. 10-46.

(50) Aristotle (*Eth. Nic.* v. 14) says that the generality of the expressions in a law renders it impossible that the rules which it lays down should be applicable to all cases. Hence, when a case arises to which

voluit sed non dixit, they follow the literal expressions of the law, and leave it to the legislature to amend its handiwork by a general provision.

A *casus omissus* may be owing to an oversight in the legislature, which did not make its remedy as extensive as the mischief to be guarded against; for example, a law might introduce certain regulations for minors marrying with consent of *parents*, but might omit minors marrying with consent of *guardians*; though the scope of the enactment would equally include both.⁽¹¹⁾ On the other hand, a *casus omissus* may often be owing, not so much to an oversight in the legislature, or to unskilfulness in the preparation of the law, as to changes of manners, the introduction of new inventions, and other novel circumstances, which have had their origin since the passing of the law, and therefore could not have been within the contemplation of the legislature. For instance: the introduction of fire-arms, of printing, of steam-navigation and railways, would create cases to which the preceding legislation would only be partially applicable, and by means of forced constructions.

The principles of interpretation for written laws differ in different countries; but, according to every legal system, there

the reason of the law does not extend, the judge must correct the error of the law by a decision which the lawgiver would, if he were present, approve, and which he would have embodied in his law if he had foreseen the case. This judicial correction of the law, where it is defective through its generality, is what Aristotle understands by *equity*. See a similar view in *Cic. de Invent.* i. c. 38; and the rules for an equitable interpretation in *Dig. i.* 3, n. 12, 13. Compare Grotius, *De Æquitate, Indulgentiâ, et Facilitate*, c. i. The same rule is adopted by Vattel for the interpretation of a private instrument (*Law of Nations*, b. ii. § 297). This principle of construction for statutes is condemned by Bacon (*De Augm.* viii. aph. 44, 46), and is too arbitrary for the English courts. The 'equity' of a statute is no longer applied. 'The legislature (as was observed by Mr. Justice Heath) is always at hand, to supply deficiencies or correct mistakes.'—Dwarris on *Statutes*, p. 720, 711, 790. It is likewise condemned by Savigny, *System des R. Rechts*, vol. i. p. 322. With respect to the pretorian law or equity of the Romans, which was a discretionary power of altering the law of the state vested in subordinate authorities, see Mr. Long's art. 'Edictum,' in the *Diet. of Gr. and Rom. Ant.*

'Judicis auxilium sub iniquâ lege rogato,

Ipsæ etenim leges cupiunt ut jure regantur.'

Dionys. Cat. *Dist.* iii. 17.

(51) See Dwarris, *ib.* p. 711.

are certain statutes which receive a wider and more benignant—others, which receive a stricter and more literal construction. Laws which grant rights, which afford relief, which extend clemency, fall into the former; laws which abridge rights, and impose pains and penalties, fall into the latter class. In the interpretation of a written law, there are two classes of unforeseen cases which embarrass the judge. First, where the case is within the words of a statute, but not within its purpose. Secondly, where the case is within the purpose of a statute, but not within its words. If the interpretation be discretionary, it would be held that the first is not, and that the second is, within the statute. If the interpretation be strict, it would be held that the first case is, and that the second case is not, within the statute.

The extent to which the courts of justice and the administrative functionaries can stretch the letter of the law, so as to cover cases unforeseen and unprovided for, or can withdraw it from cases not intended to be included in its operation, depends on the rules of legal interpretation established in the country. The law of England, particularly of late years, prescribes a strict rule of interpretation for statutes, and allows little latitude to the executive officers in enforcing the written law. It has been, since the revolution of 1688, and especially during the last half-century, the aim of Parliament to make its legislation as full, precise, and detailed as possible, to exhaust all conceivable cases and contingencies, to provide for everything which legislative prudence could anticipate, and to leave as little as possible to be supplied by the discretion of the administrative and judicial authorities.⁽⁵²⁾ This principle of interpretation is preferred, on

(52) The saying of Tacitus:—'*Corruptissimâ republicâ plurimæ leges*,' has been taken as a sort of admonitory maxim, directed against an accumulation of laws; whereas it is merely introduced by him, in a brief history of the Roman legislation, as a statement of a fact, viz., that during the civil war of Rome there was the greatest number of legislative acts, many of them aimed at individuals: '*Jamque non modo in commune sed in singulos homines late questiones, et corruptissimâ republicâ plurimæ leges*.'—*Ann.* iii. 27. At the same time, it must be admitted that Tacitus considers the multitude of laws an evil.—See c. 25. K. F. Hermann

general grounds, by Savigny, in his system of modern Roman law.⁽⁵³⁾ The doctrine of the French law, as expounded by Portalis,⁽⁵⁴⁾ in his explanation of the preliminary title of the *Code Civil*, is substantially the same, but it leaves a wide discretion to the judge in cases which have not been provided for by the legislator, or in which the law is doubtful.

The principles which ought to be adopted for the application of the existing laws to unforeseen cases, and the nature and limits of the discretion to be vested in the executive officers for disposing of such questions, cannot be here discussed. Our principal object is to indicate the importance of adverting to the effects of a law which its authors did not anticipate, and of placing them in a separate class. We may, however, remark that, in proportion as the rules of interpretation for written law are strict, the convenience of unwritten law is likely to be felt. The letter of the written law is inflexible, and legislation often follows changes in manners, and the newly-created wants of society, with unequal steps. In unwritten law, on the other hand, the judge is not bound down to any form of words; he looks to the spirit of the rule, not to its letter; he can mould it according to the new circumstances which present themselves; and he can adapt it by analogy, and by an extension, *in pari materia*, to the adjacent cases. It is in this exemption from the rules of interpretation, and in its comparative flexibility, and capacity of adaptation to unforeseen cases, that the main advantage of unwritten law consists.⁽⁵⁵⁾

Whenever the application of existing rules of law to unfore-

(*Ueber Gesetz*, &c. p. 22) has likewise collected some passages of Greek writers, in which a multitude of laws is treated as the mark of a bad political and social state.

(53) Vol. i. p. 322.

(54) See *Discours du Code Civil*, p. 29, ed. 1838: 'L'office des lois est de statuer sur les cas qui arrivent le plus fréquemment. Les accidents, les cas fortuits, les cas extraordinaires, ne sauraient être la matière d'une loi. Dans les choses même qui méritent de fixer la sollicitude du législateur, il est impossible de tout fixer par des règles précises. C'est une sage prévoyance de penser qu'on ne peut tout prévoir.'

(55) See Dwarria, *ib.* 791-7.

seen cases is in question, either by an interpretation of written or by an extension of unwritten law, the cases under consideration have actually arisen in practice, and demand a settlement by the judicial or administrative authorities. The bearing of the law upon them is, therefore, distinctly perceived, and is the groundwork of the attempt to adjudicate upon, or otherwise deal with them. There are, however, many remote effects of existing laws, which escape the general observation, and, if perceived at all, are noted only by a few attentive and sagacious persons, or by persons having peculiar opportunities of knowledge. To this class particularly belong the negative effects, which consist merely in averting, repressing, or diminishing some evil. If an operation of this sort be indirect and unintended, it is likely to remain unperceived. Hence we may enjoy the benefit unconsciously during the existence of the law, and not discover its good effects until it has been repealed. A nation may thus sometimes find itself in the same position as the people of Camarina, who were warned by an oracle not to alter a marsh near their walls. Unmindful of this admonition they drained the marsh, whereupon an enemy marched over the firm ground and took the city.⁽⁵⁶⁾

The unforeseen effects of new legislation, or of any other political agency, whether positive or negative, may often, as has been above remarked,⁽⁵⁷⁾ be detected by the Method of Residues. On examining any complex state of things, the chief part of the facts may admit of a simple explanation; but some residuary phenomenon may present itself which remains unexplained. Now a cause for this effect may be found in some antecedent change, which was not expected to produce it, but which, upon examination, turns out to be the true origin of the questionable fact.

The distinction between the intended effects of a law, either primary or incidental, and its unforeseen effects, is important

(56) See Heyne on *Æn.* iii. 700; Zenob. *Prov.* v. 18. The story is not historical.

(57) Ch. ix. § 10.

chiefly with respect to the authors of the law, and to the policy with which it was enacted. When the law is in force, it must be judged by the aggregate of its positive effects, whether designed or undesigned, foreseen or unforeseen. The effects of a law are in general mixed. The best laws produce some bad effects, and the worst laws are rarely unaccompanied with some good influence. But if the bad effects of a law preponderate—if we can with truth apply to it the verse of Martial,

Sunt bona, sunt quædam mediocria, sunt mala plura,

then, whatever may have been the policy which dictated it, and the expectations formed of its operation, it ought, after a fair trial, to be repealed. For example: if a law imposing an excise duty is found to necessitate such an amount of restraint upon the operations of a trade, as produces more evil than the revenue which the duty yields to the state does good, then the duty ought to be abolished.

The importance of adverting to the effects of a law which can be foreseen and calculated on, is most apparent in reference to the question of retrospective, or *ex post facto*, legislation. When a law is in existence, expectations are founded upon its probable stability, and voluntary arrangements are made which rest upon this hypothesis. Thus, when the law disposes in a certain manner of the effects of an intestate, a person may abstain from making a will, in the expectation that his property will, after his death, be distributed according to the legal appropriation. Again, all contracts between private parties with respect to marriage, provision for children, settlement of property, buying and selling, demising, lending, and all other economical and pecuniary matters, are founded upon the rules and provisions of the law, and presuppose its continuance. They all assume certain effects of the existing law, upon the supposed occurrence of which effects their dispositions and covenants are based. It is anticipated that the future effects of an existing law will be similar to its past effects, and that the law will continue to exist, or, if altered, will be altered in such a manner as to preserve all

inchoate rights which have been created, and all arrangements which have been made in the expectation of its continuance. Existing laws are, in fact, a prospective announcement of the intentions of the sovereign power, and their operation, in determining arrangements for the future, is similar to the effect of a notice given by a private person of his intention on any subject—as that he will visit a certain place on a certain day, that he will require certain accommodation, that he will do certain acts, and the like. When notice of this kind is given, people adapt their arrangements to the expected event, and prepare themselves for its occurrence. So, notice may be given of the time when a sale will take place, when a public meeting will be held, &c. By enacting a general law, the sovereign power gives previous notice of what its conduct will be upon a given contingency, instead of deciding the cases arbitrarily when they have arisen.⁽⁵⁸⁾

Accordingly, when a law is altered or repealed, it is usual to give to the new enactment a merely prospective operation, and not to allow it to exercise any retrospective influence.⁽⁵⁹⁾ It is held that the legislature has, as it were, pledged its faith to the nation, that laws of this nature shall not be altered without due notice, and that the legal validity of existing contracts and dispositions of property shall be maintained. Vested rights, as they are called—that is, private rights which have grown up under the protection of an existing law, are in general respected; the operation of the law is applied only to cases in which the voluntary arrangements of parties are made after the passing of the law, and, therefore, at a time when they are able to calculate upon its effects, and govern their conduct accordingly.

(58) Notice in law is, in general, information of a fact which has *already* happened, as notice of a prior incumbrance, of a dishonoured bill, &c.

(59) Retro-active legislation has been condemned from a very early period, and it is universally agreed that the presumption is always against such a course. Demosthenes, in his oration against Timocrates, uses language which shows that the principle was admitted by his hearers (p. 724, 747). Bacon has the following aphorism:—'Est et aliud genus

In certain critical states of society, the paramount interest of the public requires that this maxim should be violated; an example of which is afforded by the *Seisachtheia* of Solon.^(m) Other instances, in which existing contracts have been set aside by legislation with good effect, may have occurred in later times, but they are very rare; and scarcely any political maxim admits of fewer exceptions than that which asserts the inexpediency of *ex post facto* legislation. Where the effects of such legislation are on a small scale, they may be cured by compensation, which is the proper and received mode of proceeding in cases of expropriation for public purposes, such as roads, railways, or fortifications.

supplementi casum omisorum, cum lex legem supervenit, atque simul casus omisos trahit. Id fit in legibus sive statutis que retrospectivum, ut vulgo loquuntur; cujus generis leges raro, et magna cum cautione sunt adhibende. Neque enim placet Janus in legibus.—*De Augm.* viii. aph. 47.

Portalis, on art. 2 of the preliminary title of the *Code Civil*, says: 'C'est un principe général que les lois n'ont point d'effet rétro-actif.'—*Discours du Code Civil*, p. 27.

(6c) See Grote's *Hist. of Greece*, vol. iii. p. 138.

END OF VOL. I.



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ERRATA.

Page 41, notes, line 4, for *lives* read *lines*.

- 46, notes, line 15, for *physiociates* read *physiocrates*.
- 178, notes, line 12, for *his acceptance* read *this acceptance*.
- 191, for the rules of the modern French law respecting hearsay evidence, see Bonnier, *Traité des Preuves en Droit Civil et en Droit Criminel*, (Paris, 1852,) p. 208.
- 211, line 20, for 1688 read 1588.
- 259, notes, line 1, for 371 read 471.
- 377, line 17, for *James the First* read *James the Second*.
- 443, notes, line 2, for *note 2*, read *note Q*.

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